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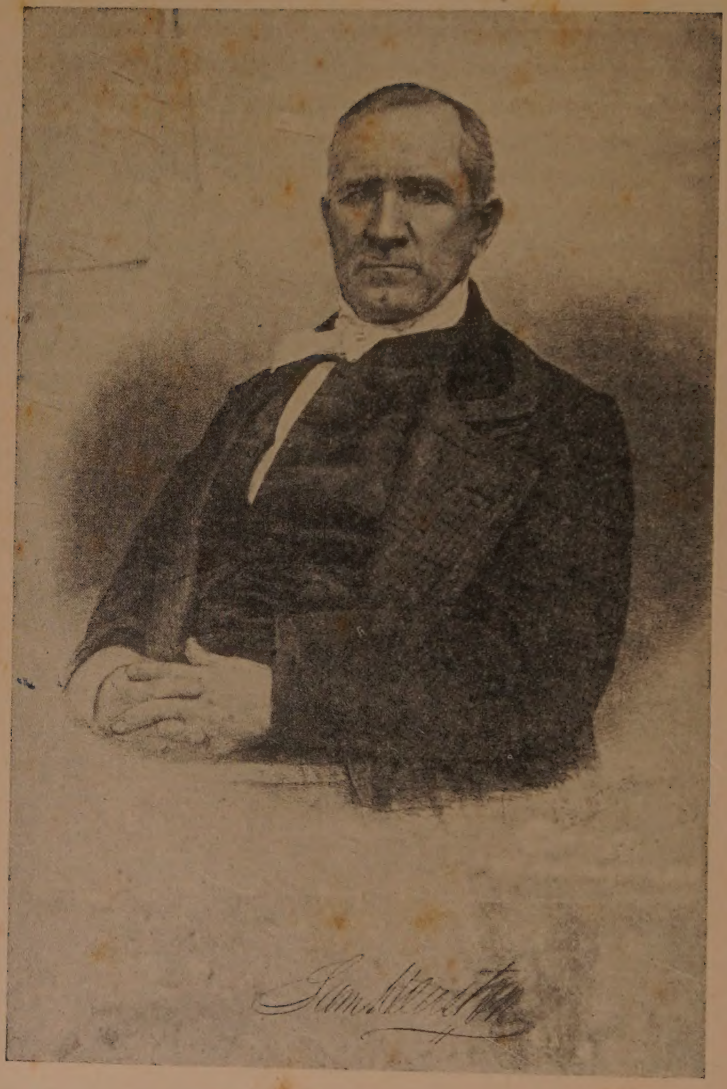

GENERAL SAM HOUSTON

TEXAS
UNDER MANY FLAGS

CLARENCE R. WHARTON
AUTHOR AND EDITOR

Author of The Republic of Texas, Life of General Santa Anna;
Member of Southwestern Historical Association;
Member of Law Firm of Baker, Botts, Parker
and Garwood of Houston, Texas

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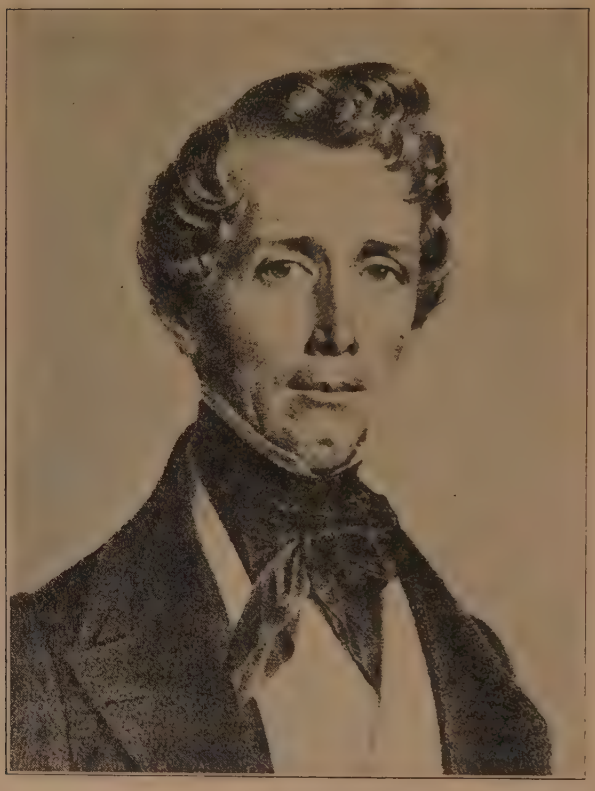


J. Pinckney Henderson, the First Governor of the State of Texas

HISTORY *of* TEXAS

CHAPTER LVIII

WAR WITH MEXICO

While these orderly changes in sovereignty were going on in Texas, wild disorder prevailed in Mexico.

A revolution had unseated Santa Anna and he was in prison at Perote when the annexation resolution passed the American Senate in December, 1844.

General Jose Joaquin Hererra succeeded him as president, and when in January, 1845, Taylor's small army landed at Corpus Christi this was taken as an attack on Mexico, and in June Hererra issued a call to arms "for the defense of independence."

But during the year Parades started another revolt, which drove Hererra from power, but he was louder in declaring war on the United States than Hererra had been.

When General Taylor had orders to cross the Nueces and take station on the Rio Grande, Parades issued a declaration,

"Such outrages cannot be longer tolerated, and I have issued orders to our army to attack the army which is attacking us."

In May, 1846, the battles of Palo Alto and Resaca de la Palma were fought north of the Rio Grande and the war was on in earnest.

Though the war was not favored by the Whigs and Abolitionists in the North and East who viewed it as a means of acquiring new slave territory, yet it found great favor in Texas, whose people had been at war with Mexico for more than ten years.

President Polk offered a commission as brigadier general first to Senator Houston and then to Senator Rusk, and when they declined, the new governor, J. Pinkney Henderson, was named to lead the Texas troops.

When General Taylor's army reached the Rio Grande it consisted of about three thousand men and it was necessary to reinforce him with volunteers as speedily as possible.

Many years later, General Grant, who had been with this army, said of it—"A more efficient army for its numbers and armament never fought a battle."

As Taylor moved down from Corpus Christi and before the battle of Palo Alto, he was joined by Samuel H. Walker with a company of mounted Texans who were with him in the first two battles where Captain Walker performed signal service.

Many of the survivors of San Jacinto, which had been fought only ten years before, joined the army of invasion, among them were ex-President Lamar and General Edward Burleson.

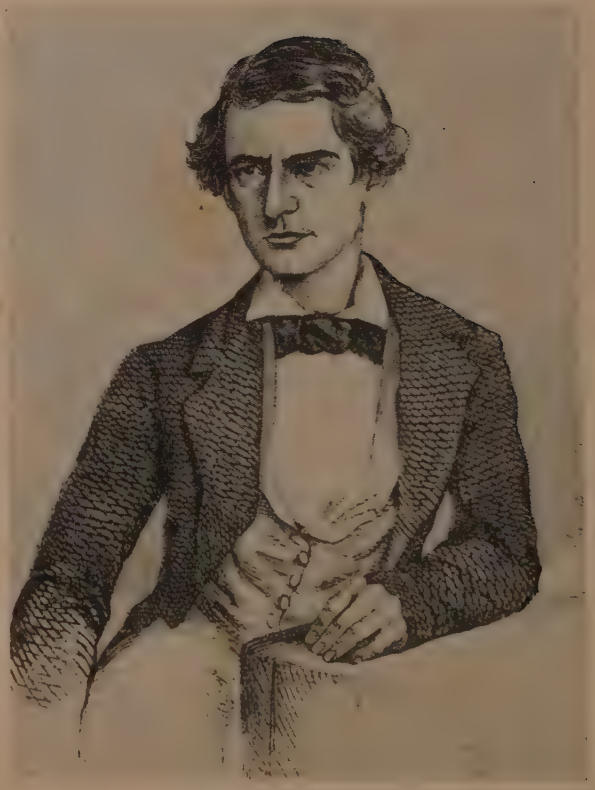
The first enlistment of Texas troops was for six months and Albert Sidney Johnston commanded a regiment of these short service men.

Captain Gillispie, commanding a company of Texas troops led in the storming of the bishop's palace at Monterey, where he was killed. After the battle of Monterey the Texas short term troops disbanded, and in this way General Johnson entirely lost his command and returned to his plantation in Brazoria County. Ben McCullough and Jack Hays both returned home and raised new regiments.

McCullough rejoined Taylor's army before the battle of Buena Vista in February of the following year and was on scout service as Santa Anna's army approached from the south, and

THOS. J. RUSK

CAPTAIN SAMUEL H. WALKER



COLONEL JACK HAYS

it was he who discovered it and advised General Taylor, preventing a disastrous surprise.

Colonel Hays' new regiment of Rangers was mustered at San Antonio, marched down the Rio Grande to Point Isabel, where it was transported to Vera Cruz and joined Scott's army of invasion. Captain Samuel H. Walker was first lieutenant in this regiment.

After the City of Mexico had fallen Santa Anna still in command made a desperate effort to break Scott's communications with Vera Cruz, but was defeated and fled across the mountains pursued by General Lane's division, where one of the last battles of the war was fought at Haumantillo. Here Captain Walker was killed. He had been the first Texan to enlist and lost his life in the last battle.

Jack Hays' Texas Rangers was the most celebrated single command that participated in the Mexican war. The services that it rendered in the southern campaign not only won the attention and admiration of the military authorities, but were heralded throughout Texas and the United States in a way to give it and their commander national fame. It participated in every battle until the capitulation of the City of Mexico and was the last to leave for home after the treaty of peace was signed in February, 1848.

Colonel John C. "Jack" Hays had come to Texas from Tennessee in his twentieth year and had been for several years in frontier military duty under the Republic. He was not quite thirty when he entered the Mexican war.

When he returned to Texas in 1848, his achievements and those of his regiment in the war had made him a popular hero. About this time gold was discovered in California and he was in the rush of the '49s and took up his residence there. In 1854, President Pierce, who had fought with him in the southern campaign, appointed him surveyor general of California and he became a leading citizen of that state. He was the founder of

the City of Oakland which was located on his ranch, and lived there in affluence for nearly forty years.

About eight thousand Texas volunteers participated in the Mexican war. The great hatred of the Texans for Mexico and the Mexicans continually manifested itself, and all through the war the Texas troops were prone to make reprisals for the atrocities committed by Santa Anna's invasion in 1836. After the Texas short levies were disbanded at Monterey, General Taylor reported to the war department—"The Texans have been disbanded and have gone home and we can hope to have some quiet and order in Monterey."

After the battle of Monterey, Colonel Walter P. Lane of Marshall, commanding a company of Texas troops, was instrumental in gathering the bones of the murdered Mier men where they had fallen in 1843, and they were transported back to Texas and given Christian burial on the heights across from La Grange.

In the Treaty of Velasco, negotiated with General Santa Anna shortly after the battle of San Jacinto, the Rio Grande was fixed as the boundary between Texas and Mexico, but Mexico owned all the country west and south of the Louisiana Purchase, and the first Congress of Texas, in December, 1836, defined the limits of the Republic as shown by the red lines on this map. They follow the Rio Grande to its source, in what is now Colorado, thence due north to the De Onis-Adams line between the Louisiana Purchase and Spanish territory on the 42nd degree Latitude, in what is now Wyoming, and follow that line east and south to the mouth of the Sabine, as shown by the celebrated Melish Map of 1818, which is named in the De Onis Treaty. Melish misplaced the 100th Meridian, and this caused the loss of Greer County thirty years ago.

When Texas entered the Union in 1846 it claimed these boundaries until 1850, when it relinquished all territory outside its present limits for ten million dollars, which went to pay the debts of the Republic. The territory thus released embraced about 65,000 square miles of the present State of New Mexico, 19,000 of Colorado, 4,000 of Wyoming, 7,700 of Kansas and 5,600 of Oklahoma.

CHAPTER LIX

BOUNDARY SETTLEMENT

The Spanish authorities who first made locations of missions and presidios to offset French encroachment on the Louisiana border regarded the Province of Texas as embracing only the country of the Tejas Indians east of the Trinity.

Settlements were made on the San Antonio River in 1718 and gradually all the country from there east came to be called Texas.

The Province of Tamaulipas as established by the viceroys in 1749 extended across the Rio Grande and along the coast to the Nueces River. Above it Coahuila reached to the Medina and still further up the Rio Grande the Province of Chihuahua extended across the river including much territory which is now in Texas.

During the period of Mexican supremacy, 1821 to 1836, the Province of Texas was never regarded as embracing any of the country west of the Nueces and the Medina.

When Burnett negotiated the treaty of Velasco with Santa Anna, he bound himself to cause the invading armies to retreat beyond the Rio Grande and Filisola carried out these orders. The Texans regarded this as an agreement that the Rio Grande was the boundary and always insisted that this was the meaning of the Velasco treaty and in December, 1836, the first congress of the Republic passed an act fixing and declaring its boundaries as shown on the accompanying map.

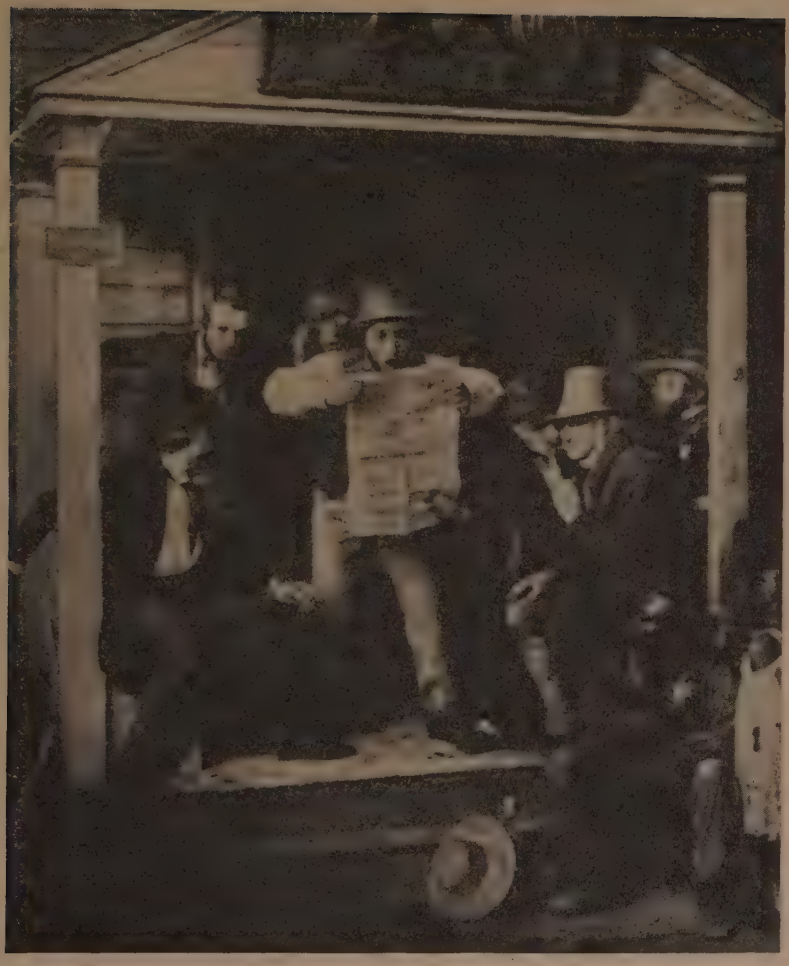
During the era of the Republic the only effort made to exercise sovereignty over any of the territory beyond the present limits of Texas was that undertaken by the Santa Fe expedition. At the outbreak of the Mexican war military expeditions were

sent to New Mexico and California and General Kearney's division occupied Santa Fe and set up a military government there. Doniphan's command coming through New Mexico occupied El Paso and a small military force remained stationed there after the close of the war.

Anticipating that there would be a controversy about boundaries the Legislature of Texas before the war closed in 1847, passed a statute creating the counties of Nueces, Webb, Starr and Cameron, all west of the Nueces. This was done under the inspiration of Ex-President Lamar, who was at that time captain of the Federal troops stationed at Laredo.

In March, 1848, a few weeks after the treaty of Guadalupe Hidalgo was signed and before its terms were published in the United States, the Legislature of Texas passed a statute creating the County of Santa Fe, embracing all the territory from the mouth of the Pecos north along the Rio Grande to its source and thence due north to the 42nd parallel in what is now Wyoming. The eastern boundary of Santa Fe County was to follow the Adams-De Onis line from the 42nd parallel to where the 100th meridian crosses Red River, thence up the principal stream of Red River to its source, thence due west to the Pecos. These limits included more than one hundred thousand square miles of territory and extended from the 30th parallel at the junction of the Pecos and the Rio Grande to the 42nd parallel, a distance of more than one thousand miles.

Santa Fe County was designated as the Eleventh Judicial District of Texas and Governor Wood appointed Spruce M. Baird, an East Texas lawyer, judge of the new district. Judge Baird left Nacogdoches, going to the county seat of Santa Fe County on the 24th of May, 1848, to assume his judicial duties and reached that place on the 10th of November following, but neither the Federal authorities or the people of New Mexico would recognize his credentials. He remained there a year parleying with the military government in an effort to organize the county, but was not allowed to do so.



READING MEXICAN WAR NEWS

[The America of the Mexican War Period was a country of farms and plantations, cross-road villages, and such wayside inns and country stores as that shown in the illustration]

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The people of New Meixco were very much opposed to the Texas claim and began an agitation for a separate government, and encouraged by the military authorities, this went forward until a constitution was adopted and state officers chosen in 1849.

During his entire two year term, Governor Wood lost no opportunity to claim this outlying territory and if messages and ex parte declarations could have accomplished the matter, it would have been speedily settled.

In 1849 Wood was succeeded by Peter Hansborough Bell, third governor of Texas, who was, if possible, more militant in the assertion of these claims.

Realizing that Santa Fe County was somewhat oversize, the Legislature in 1849 cut off that portion lying between the Rio Grande and the lower Pecos and formed the counties of Presidio, El Paso and Worth, but still leaving Santa Fe County with its northern and eastern limits extending into the present states of New Mexico, Colorado, Wyoming, Kansas, Oklahoma and including also what is now called the Panhandle of Texas.

R. S. Neighbors was designated to organize a government in these counties and in 1849 caused an election to be held by the people of El Paso at which county officers were chosen and a county government set up. He was unable to visit the Presidio County on account of the Indians, nor did he undertake to organize Worth County, which lay chiefly within the present limits of New Mexico, but went on to Santa Fe in the hope of being able to hold an election and set up a county government there. But the hostility of the military authorities and the people of New Mexico prevented him, as it had prevented Judge Baird, from carrying out his design.

The attitude of the military government at Santa Fe aroused a bitter feeling in Texas and Governor Bell, backed by the state Legislature and a solid local sentiment, manifested an intention to organize military forces and take possession of the territory and set up a local government at Santa Fe. The matter was

widely discussed in Texas and throughout the South and hundreds of letters reached the governor from persons anxious to take part in the military enterprise to resist Federal control over the disputed territory.

The question of the disposition of the vast territory acquired by the United States as a result of the Mexican war was a national one in 1849 and 1850 and around it was waged a conflict between the slavery and anti-slavery elements in and out of Congress which would in all likelihood have precipitated the Civil war, but for the great compromise measure of 1850 which postponed that struggle for a decade.

The territory claimed by Texas extended 5½ degrees north of the Missouri Compromise line and if Texas held this territory it would be a slave state to 36-30 and a free state above it and slavery would be extended on the west as far as the Rio Grande into what is now New Mexico. Texas therefore had the sympathy and support of the pro-slavery leaders of the South, who were fighting to hold the equilibrium between free and slave territory and to extend slavery as far as possible into territory acquired through the Mexican war.

The celebrated compromise measure of 1850 was before Congress and the Texas boundary question was injected into it. The Texas delegation in Congress took every opportunity to urge its claims to the limits fixed by the congress of the Republic in 1836. And while the state had never exercised any sovereignty over this disputed territory, yet, as Senator Clay expressed it, they advanced plausible arguments.

The resolution for annexation passed by the American Congress under which Texas came into the Union in 1846 contained a provision that with the consent of the people of Texas, four states might be formed out of its territory, but that any state so formed out of territory north of 36-30 should be a free state. This, the advocates of Texas contended, was an admission made at that time that its territory extended north of 36-30.

They also pointed out that if the Rio Grande River was not the proper western boundary of Texas in 1850 that it was not the boundary in 1846 when Taylor's army under orders from the President of the United States crossed the Nueces and established itself on the Rio Grande, claiming that river as the boundary.

When the first hostilities occurred after Taylor crossed the Nueces, President Polk sent a message to Congress declaring that American citizens had been fired on by Mexican soldiers on American soil. Abraham Lincoln, then a member of Congress from Illinois, introduced the celebrated "spot resolutions," asking the President to designate the place where this had occurred, and it was openly claimed by opponents to the administration in Congress and by those unfriendly to the Mexican war throughout the North that Taylor's advance beyond the Nueces was an invasion of Mexico.

The Polk administration in defense of its position had always claimed that the Rio Grande was the boundary, and this claim was cited with great effect in the controversy in 1850.

There was much fear that if Governor Bell carried out his intention to send a military expedition into New Mexico that a civil war might result.

Senator Clay, fighting vigorously near the close of his great career for the passage of the compromise bill, urged consideration of the Texas claim and referred to the danger that enthusiastic spirits from Arkansas, Louisiana and other Southern states might flock to the standard of Texas and bring on grave disorder in the disputed territory.

Alexander H. Stevens, debating the question, said: "The first Federal gun that shall be fired against the people of Texas will be a signal for freemen from Delaware to the Rio Grande to rally to the rescue."

The fight had waxed so warm in Congress that it was inevitable that, unless the boundary was settled and Texas satis-

fied, the compromise bill was doomed and chaos and disaster might follow. This led to a suggestion from Senator Winthrop of Massachusetts, who had just succeeded Daniel Webster, that "the line be run by gold rather than steel, by money rather than blood."

Senator Pearce of Maryland first offered a bill which provided for the surrender of the disputed territory by Texas and a payment to the state of $10,000,000 for its relinquishment.

Senator Benton of Missouri also offered a bill fixing our western boundaries at longitude 102 and "removing the northern boundary from the frozen region of 42 to the genial clime of 34." His argument was that Texas was too large; "she covers 16 degrees of latitude, and 14 degrees of longitude. Her southeast corner is at the mouth of the Rio Grande—a region of perpetual flowers; her northwest corner is near the South Pass in the Rocky Mountains—a region of eternal snow."

On the same day that Benton introduced his bill, Senator Foote of Mississippi offered a measure enabling the citizens of Texas to form a state east of the Brazos to be designated San Jacinto, leaving Texas with northern and western limits as claimed by it.

When the matter came to a test in Congress the boundary dispute had become so bitter that the entire compromise bill was at first defeated and a new measure designed only to fix these boundaries was offered by Senator Pearce of Maryland. It provided for the payment of $10,000,000 for the surrendered territory and was finally passed, having the concurrence of the entire Texas delegation in Congress. These new boundaries, substantially the same as those we now have, fixed our north line at 36-30, which was the old Missouri compromise parallel of 1820. The east boundary followed the Adams-DeOnis line. The western boundary from 36-30 to 32 was fixed along the 103 meridian, which was supposed to be the eastern limits of New Mexico under the Spanish regime. When this line reached the thirty-

second parallel it ran due west to the Rio Grande River so as to include El Paso, whose people had expressed the desire to remain a part of Texas. The eastern boundary as fixed by Adams and DeOnis in 1819 called to ascend Red River to where the one hundredth meridian crosses same, as shown by Melish's map, thence up that meridian.

In 1858, when an effort was made to fix this line on the ground between Texas and the Indian Territory, it was discovered that the meridian marked on the Melish map in 1819 was 100 miles east of its true location and then forty years of trouble began.

In 1860 the Legislature of Texas organized Greer County in the disputed area and did all that could be done to exercise jurisdiction.

The war came on and the one hundredth meridian was for a time forgotten. But after the war the quarrel flared up and vexed both governments until 1896, when the controversy found its way to the Supreme Court of the United States. Texas claimed:

1. That by special averments the Melish map had been made a part of the Adams-DeOnis treaty in 1819 and the meridian must be where that map placed it.

2. That if it were located 100 miles farther west, to accord with the act of 1850, that yet we could hold all territory south of the north fork of Red River, for this was regarded by Adams and DeOnis as the real Red River and the boundary must be found by descending that north fork from the point where the true meridian crosses it.

This would have given us Greer County, which was located in the forks of the river. But the court held otherwise, viz.: That the true meridian astronomically located must control and not the false line on the Melish map, and that the south fork of Red River, "the Prairie Dog Town Fork," as called by the Indians, was the stream called for in the treaty of 1819.

In 1819 the south fork of Red River had never been explored. DeOnis thought that it rose very near Santa Fe, and Adams referred to it as originating in the Snow Mountains of New Mexico. At that time neither the Missouri nor the Arkansas had been traced to their sources.

CHAPTER LX

LIQUIDATION OF THE DEBTS OF THE REPUBLIC

Many members of Congress supported the Boundary Bill and the payment of $10,000,000 to Texas on the theory that the Federal Government was to an extent liable for the debts of the Republic.

The articles of annexation provided that Texas should retain its public lands to be applied to the payment of its debts, and "in no event are said debts to become a charge on the Government of the United States," but a substantial portion of this outstanding indebtedness was secured by a pledge of the import revenues of the republic which now became the revenues of the Federal Government.

The Boundary Act required the United States to hold half of the purchase price until all creditors holding bonds or other evidence of debt against Texas for which duties on imports were pledged should file releases of their claims with the secretary of treasury. As with all new governments, finances had been the great problem of the Republic.

When the provisional government was organized in 1835, Texas was wholly without money or credit. The entire cash resources consisted of $58.30 in the hands of Gail Borden, receipts from dues on lands, and "several hundred dollars" held by the alcalde at San Felipe.

The only resources were the public lands, and while the provisional government realized that the war must be financed by the public domain, yet it closed the land office and allowed no locations during the revolution.

This was done for two reasons, first, the ugly land scandals in Coahuila just before the beginning of the war, and to guard

against a similar state of affairs in Texas during this disturbed period, and second, the guarantee to the soldiers, who would be paid in land bounties, that the more choice locations would not be taken while they were in the field.

The government agents sent to the United States by the provisional governments were authorized to negotiate loans, and they raised enough money from merchants and bankers and other friendly sources to purchase such meager military supplies and equipment as was furnished the patriot army.

The entire debt of the two provisional governments from the autumn of 1835 to September, 1836, which covered the period of Mexican invasion and the San Jacinto campaign, was only about $267,000, for which drafts were issued against an empty treasury. The soldiers were paid in land bounties and the families of those who fell at the Alamo and at Goliad were each granted a league of land.

Beginning with Houston's administration and on through the administration of Lamar, the Republic made repeated efforts to negotiate a large foreign loan, but the great financial panic of the VanBuren administration in 1837 made it impossible to do any financing in the United States.

Congress commissioned Gen. James Hamilton, former governor and United States senator from South Carolina, to sell $5,000,000 of Texas bonds in Europe, and he went abroad and spent long months in the ante chambers of bankers and political leaders in England, Belgium and France and frequently reported that the loan had been made, but some detail always disappointed him.

In April, 1840, he sent home the glad news that the bonds had been placed with a French banking house, to be guaranteed by the French government. The failure of the French loan has been traced to a trifling and ludicrous incident.

Hamilton was dealing with Humann, French minister of finance. The French minister to Texas, residing in Austin, was an impetuous ass named M. de Saligny, and he was the brother-

in-law of the minister of finance. There was an innkeeper in Austin named Bullock, whose pigs ran at large and found their way into Saligny's stables, where one of them was killed by the French minister's servants. Bullock thrashed the servant, and Saligny complained to the authorities against this indignity and the innkeeper was arrested. But the sympathy of the village was with him and the secretary of the treasury went on his bond. Not satisfied with whipping the offending servant, Bullock offered some indignity to the minister, and this worthy made such an outcry that his recall was requested. His report on Texas and the Texans was so severe that the French minister of finance relented his plan to have the government underwrite the Texas bonds and Hamilton's mission failed.

But though a great foreign loan could not be negotiated, nevertheless the obligations of the government were issued in ever increasing volumes, and when debts matured they would be refunded with new obligations.

From less than $2,000,000 at the close of Houston's term the debt rose to more than $7,000,000 at the end of the Lamar administration in 1841, and gradually mounted to $12,500,000 at the time of annexation. In 1841 treasury notes were as low as 15 cents on the dollar, and a citizen related that he gave $15 for three glasses of brandy and water without sugar.

When Texas became a state its people did not feel the impelling necessity for maintaining its credit, and the various State Legislatures from 1846 to 1855 gave much attention to ways and means of scaling down and paying off this vast debt.

It was now advertised that during the dark period of the Republic money lenders had taken advantage of her necessities and bought these obligations at great discounts. A distinction was made between original holders of these bonds and notes and subsequent purchasers and many other flimsy and forbidding excuses were given in a series of legislative acts for reducing these debts in the hands of the public from their face value of $12,436,000 to $6,827,000.

After several years of dickering, which reflected no credit on the state, the claims were all settled at a great discount. Doctor Garrison estimates that the creditors received an average of 80 cents on the dollar. The claims were classified and some paid at par and others severely discounted.

When the state collected the balance of the $10,000,000 in 1855 and got a Federal refund of $2,500,000 for frontier expenses, there were flush times in Texas. A new capitol and the governor's mansion were built, as well as an insane asylum, a school for the blind, and other state institutions, and for six years this fund was used to defray current expenses and state taxes were remitted to the counties for public buildings.

It would be a more pleasing story if the historian could tell that the state paid its debts in full out of this fund, which was entirely sufficient for it to have done so, rather than embark on a building program at the expense of its creditors.

CHAPTER LXI

THE FRONTIERS OF THE FIFTIES

When annexation was accomplished, the people of Texas believed that their troubles were over; that they would have stability at home and protection against the Mexicans and Indians who had harassed them during the days of the Republic. These hopes were largely realized during the two years of the Mexican war, which immediately followed, when the Federal Government poured troops along the border and into Mexico, and punished the Mexicans in a way that the Texans had long hoped to see them punished.

In the beginning of the Mexican war, the United States Government was confronted with the same situation that had confronted the colonists in 1836, when Santa Anna's invasion was imminent. If the Indians should join the Mexicans or should harass the settlements in the rear of Taylor's army, they could bring on a serious situation; hence, it was necessary to parley with the red brother and keep him quiet during the war. This was the plan which the consultation had adopted in 1835, when it sent emissaries among the Indians, and made them many promises which were never fulfilled. And now when it was necessary to send the armies into Mexico, numerous councils were held among the Indians and treaties negotiated, and these conversations were continued over a long period of time, so as to keep the savage diverted and, to use a slang expression, "string him along."

As early as 1846 a Federal Indian agent had rounded up forty-one chiefs from this frontier, and taken them on a trip to Washington to visit President Polk, the Great Father. It was the plan of the agent to keep the chiefs traveling over the country

until the war was over and, by means of these blandishments and a liberal distribution of presents, the Indians were kept reasonably quiet until the close of the war.

Congress appropriated $10,000 for the Comanches and Kiowas and other prairie tribes, which was largely used during this period. Frequently this money was spent for the ransom of captives which the Indians had spirited away from the settlements and held for barter.

But when the war was over and the task of protecting the long frontier from the mouth of the Rio Grande River to the remote northwest fell to the general Government, there was a marked failure to meet public expectations. Almost every governor of Texas before the Civil war complained to the Federal Government about the inefficiency of frontier protection. A Texas paper in 1849 said: "The idea of repelling mounted Indians, the most expert horsemen in the world, with a force of foot soldiers, is ridiculous."

It was charged in the House of Representatives in 1853 that the soldiers in Texas would pursue flying Comanches in wagons drawn by mules.

After 1849 the War Department increased the number of companies on the Texas frontier service from twenty-eight to forty-two, which brought the number of troops up to more than eighteen hundred, and in 1851 this force was raised to forty-eight companies, or about twenty-four hundred men. In 1853 the entire army of the United States did not exceed approximately 14,000 men, and nearly one-third of it was in service in Texas.

Bell, the third governor of Texas, in 1852 organized three companies of rangers for service on the Rio Grande, and the Federal service was continuously supplemented by state rangers from that time until the Civil war.

Under the treaty of Guadalupe-Hidalgo, the Washington Government bound itself to protect the Mexican frontier from incursions by Indians, and consequently it had the multiplied

RUNNING THE GAUNTLET

responsibility not only of protecting the Texas frontiers but the Mexican borders as well.

At the time of the annexation of Texas there were sixty-three military posts in the United States. In 1851 there were 109 posts, forty-six of which were in the territory acquired from Mexico, and nineteen of these in Texas.

In 1849 there was a line of posts established extending from Fort Duncan, on the Rio Grande, to Fort Marvin Scott at Fredericksburg, Fort Croghan in Burnet County, Fort Gates in Coryelle County, Fort Graham in Hill County on the Brazos, and Fort Worth in Tarrant County. This line well marked the extreme frontier at that time, and was the imaginary line between the white man and the Indian country.

But this phantom line was soon moved westward and before 1853 Forts Marvin Scott, Croghan, Gates and Worth had been abandoned and a new line established and the outposts were Forts Stockton, Mason, McKavett, in Menard County; Chadbourne, now in Coke County; Phantom Hill, and Belknap, where Graham now stands, in Young County.

During the years 1849 to 1861 many of the men who became famous in the war between the states were in the Texas service. R. B. Marcy spent much of nearly twenty years here. Robert E. Lee, Kirby Smith, John B. Hood, Earl VanDorn, W. T. Hardee, George H. Thomas, George Stoneman, W. M. Graham, S. D. Sturgis and numerous others were on the frontier rolls of the '50s.

Though the Federal forces employed on the frontier during this period were a large part of the entire standing army, the protection was wholly inadequate.

General Houston, then in the United States Senate, was a consistent critic of the Federal Indian policy, and he stated in a lecture delivered in Hartford, Connecticut, in 1852, that the National Government was then spending $6,000,000 annually to preserve peace on the frontiers of Texas and New Mexico, and

that most of this was uselessly expended; that he could guarantee to keep the peace through this whole line for $100,000 a year.

The laws of Texas did not recognize Indians' rights to the soil, though many of these tribes had occupied regional locations for periods long ante dating the first white settlements in Texas. After annexation the influx of immigration carried a constant tide of new homesteaders farther and farther west into the Indian country, and surveyors were constantly penetrating the hunting grounds and the state granting lands which the Indians had long claimed and looked upon as their own. The Indians were jealous over these intrusions, and, while they agreed to the location of trading posts among them, insisted that they did not relinquish their claim to the territory occupied by the traders.

Wood, the second governor of Texas, began to complain to the Federal Government that the Indians should be removed. He said that Texas had retained all of her lands and that they were needed for the purpose of sale and the payment of the debts of the Republic; that they could not be sold as long as the Indians infested the country, and that these Indians should be removed since they constituted an incumbrance on the land. In fact, nothing short of their removal or extermination was ever satisfactory to the people of Texas.

The *Texas State Gazette* in 1851 announced a policy:

"The Indians must be pursued, hunted, run down, and killed, driven beyond the limits of the state."

This same paper at one time published information that the Legislature of Chihuahua had authorized the employment of agents to hunt Indians and agreed to pay a bounty for Indian scalps; that the soldiers were to receive $200 each for warriors' scalps, and $100 each for women's and children's scalps, a higher reward for prisoners, and they were to have all the plunder they could secure. The same report continued that Major Chevalie, in charge of a company of emigrants bound from Texas for California, reached Chihuahua and was stranded without means of continuing his journey. The major and his company entered the

BATTLE CREEK FIGHT, NAVARRO COUNTY

Mexican service, and earned enough money in scalp hunting to finance their trip on to California.

The policy of the Federal Government was to concentrate the Indians on reservations, support them with annuities, and try to protect them against extermination as long as they were peaceful. This policy found great criticism among the frontier folks, who, struggling hard for a livelihood, resented the bounties which the Federal Government often gave the Indians, who were always vigilant for an opportunity to commit plunder and murder.

A Texas paper, criticising this policy, said:

"The system of bribing them to lie by giving them food and presents is behind the age and not worthy of the nation."

It was rather an axiom from the beginning that the Texas Ranger was an Indian exterminator.

In order to keep down strife, Henderson, first governor, recommended a frontier line across which the Indians should not come and beyond which the settlers should not go. But General Houston once said to Noah Smithwick that if a wall were built, dividing the Indian country from the settlements, it could not be made so high that the white man could not scale it.

Beginning about 1850 and almost continuously until the war, the Indian depredations were constant along the entire frontier, and prior to 1857 most of them occurred in that part of the country between San Antonio and Brownsville by Indians who had learned the art of dodging across the river to escape Federal troops and back into Texas to escape Mexican soldiers.

But the situation of the savage during this period was an unhappy one. The advance of the white population had depleted supplies of game and the buffalo was becoming scarcer. General Marcy, who was on these frontiers in the '50s, made frequent comment of the half-starved condition and constantly diminishing number of these tribes. The *Texas Telegraph* in 1849 had published a report that the Tonkawas were starving and had

begged for food and offered to cease depredations if they could get enough horses to eat.

The Federal Government was unable to keep Indians from further north out of Texas during this time, and there were frequent incursions of Choctaws and Chickasaws and Kickapoos from the reservations north of Red River, who would travel all the way across Texas into Mexico on their war excursions. Traders above Red River would purchase the plunder that these Indians would take on their raids, and furnish them with guns and ammunition. It was the same old story that had been told a hundred years before, when the Comanches and Apaches would plunder the Mexican border and carry away horses and captives, which were sold at trading posts on Red River and resold to the plantations in Louisiana.

CHAPTER LXII

THE TEXAS INDIAN RESERVATIONS

The Federal Indian commissioners in Texas repeatedly urged that the local tribes be placed on reservations. They were in constant contact with these Indians and represented to the authorities at Washington that they desired to settle down and become farmers and herdsmen.

In 1852 the State Legislature, in response to requests from the Federal Government, approved resolutions authorizing the governor of Texas to negotiate lands with the national authorities for Indian reservations, and Captain Marcy and Major Neighbors were sent to survey the land. Two reservations were located in Young territory, the larger one, the Brazos agency, consisting of about 37,000 acres, was on the main fork of the Brazos River about fifteen miles south from Fort Belknap, the present town of Graham. The other reservation for the Comanches was on the clear fork of the Brazos about forty miles above, and consisted of four leagues. On the Brazos agency Neighbors settled fragments of the Caddos, Delawares and five or six other tribes. In September, 1855, he had about 800 Indians at this agency. Houses for employees were built, and the Indians were encouraged and aided in building homes and starting farms, and they made considerable progress toward permanent settlement.

Only about 400 Indians were gathered on the Comanche reservation, and it accomplished much less than the Brazos agency, although the Indian agents from time to time made encouraging reports of the progress of both reservations, and other similar reservations were proposed and discussed. The

Federal Government spent about $100,000 a year upon these reservations, but they were destined to failure because of the bitter antagonism of the white people and the continued depredations of Indians upon the settlements.

The frontiersmen repeatedly declared that the reservation Indians were guilty of these depredations, but the agents almost always insisted that it was the wild tribes and not their wards who were guilty. One J. R. Baylor, who had been Indian agent and who had been dismissed for reasons which seemed entirely sufficient, and who entertained a great hostility against Major Neighbors, devoted himself almost entirely during these years to a crusade to harass Neighbors and get rid of the Indians and to break up these reservations.

Matters were brought to a climax by a raid which occurred in 1858 which frontiersmen declared was done by reservation Indians, to which Neighbors replied that the offenders were Shawnees and Kickapoos not connected with the reservation. Baylor took up this quarrel and had little difficulty in inciting the entire frontier in a campaign to wipe out the reservations. In the latter days of December, 1858, a party of twenty-seven Indians, consisting of eight men, eight women and eleven children, were camped on Keechie Creek near the lower agency. They had been hunting and had not molested the white people, some of whom had visited them. A party of armed citizens stole upon their camp early in the morning while they slept, and killed four men and three women and wounded nearly all of the others. One Peter Garland of Eastland County and John R. Baylor and others whose names were well known were the perpetrators of this outrage. Governor Runnels in a mild way warned the people to beware of such crimes against the Indians, but no criminal proceedings were begun against any of the persons implicated in the Keechie murders.

Baylor and his confederates continued their agitations and meetings were held in some of the frontier counties in which

it was declared that they were doing for themselves what the Federal Government had failed and refused to do.

The controversy continued, and in June, 1859, Governor Runnels appointed a commission composed of George B. Erath, Richard Coke, J. M. Smith, J. M. Steiner and John Henry Brown to make an investigation. They reported no testimony incriminating the Indians of either reservation prior to the fall of 1856, but since that time they believed that both the agency and reservation Indians had been guilty of horse stealing and possibly had committed some murders; that while the majority of the Indians were faithful to the whites, there were some shrewd fellows among them who took advantage of the confidence placed in them and would steal away from the reservations; that vicious whites had led the Indians astray.

The situation became so tense that the Indian agents reported to the Federal Government that the further maintenance of the reservations in Texas was impossible, and Governor Runnels requested that they be removed. The Federal authorities hoped to leave them there until late in the fall, when their crops were harvested, but the pressure was so great that Neighbors reported that they had better move at once, and the exodus to the north of Red River started in June.

Volunteer state troops were organized to attack the Indians if they were not removed at once, and when Neighbors took them north it was necessary to have the protection of Federal troops to prevent their destruction by angry citizens who followed the retreat.

Major Neighbors, who was a brave and efficient officer, sympathized with the Indians and was bold in his criticisms of the attacks upon them. He returned to Fort Belknap in February and was assassinated. In an official report to the secretary of the interior, following his death, Major Greenwood wrote that Neighbors was murdered by some of those whose vengeful animosity had been incurred by his zealous effort to protect the Indians and their property from wrong.

Governor Runnels was out of sympathy, as he should have been, with the agitators who brought on the Keechie murders, though he was careful not to express himself with any vigor against them. His failure to espouse the campaign of extermination, coupled with the terrible sufferings which the frontier people sustained at the hands of marauding tribes, brought down upon him the wrath of all West Texas, and this was made an issue against him in his campaign of 1859 and contributed powerfully toward his defeat.

The Federal Government recognized the inefficiency of its frontier protection during the '50s and in 1855 Congress voted $2,500,000 to reimburse the state government for the expenses it had incurred in ranger service during the preceding ten years.

Conditions on the frontier at the time of secession were very desperate, and the conflict for supremacy was waged for nearly twenty years longer.

One of the darkest, bloodiest chapters in the annals of the human race is the story of the white man's treatment of the Indian in America.

It began with great Columbus, who, as governor of Hayti, started a course of cruelty to the simple natives, who in twenty years were reduced from 1,000,000 to 14,000.

We are accustomed to speak with horror of Spanish atrocities against the natives, but a close scrutiny of the conduct of our own forefathers discloses only a shade of difference. The Spaniards would enslave the Indians and waste them with drudgery and disease. The English colonists wanted their lands and found that the only way to get them and safely hold them was to exterminate the rightful owners.

One shudders to think that the great and wise generation of men who founded the colonies in Texas and wrought its independence and conserved the Republic could have been guilty of repudiating the Cherokee treaty.

It is a forbidding aspect of human progress that the civilizations of the world have been builded over the blood and ashes

of weak subject races. When the white man first came to these shores, he was hailed as a superior being and the simple native was ready to accord him the attributes of deity. But everywhere this adulation was met with ugly excesses which only a superior intellect could invent. From the time the white man came the Indian was doomed. Was it part of the Divine plan, or shall our stalwart fathers be called to answer at some far judgment day for their cruel aggressions?

Is the present reign of lawlessness which holds this country in its awful grip, the outgrowth of a policy under which our fathers drove away the rightful owners of the soil and built our homes in their hunting grounds?

CHAPTER LXIII

THE OVERLAND MAIL

At the close of the Mexican war, when the United States began to plan and place military establishments in Western Texas, a great portion of the country had been unexplored since the days of the Spanish priests and soldiers in the century before. In 1849, Capt. R. B. Marcy made a pathfinding expedition from Fort Smith, Arkansas, westward through what is now Oklahoma and the Panhandle of Texas, to Santa Fe, and returning logged the Marcy Trail from El Paso to Preston on Red River, near the present site of the city of Denison, along the general route later followed by the Texas & Pacific Railroad.

In 1854 Marcy went again over very much this route, going from east to west. In an hour's ride after leaving Gainesville, they passed the last house on the entire route.

About the same time that the Guadalupe-Hidalgo treaty was published in the United States in 1848, news reached the country of the discovery of gold on the Sacramento River in California, and the gold rush of '49 was on. While the favorite route was by boat into the gulf and across the isthmus, thousands traveled overland and many of them from and through Texas.

In 1857 Congress passed an act for the establishment of an overland mail service between some point on the Mississippi River and San Francisco, and the contract was awarded to John Butterfield, G. Fargo, and others. They were to furnish a semi-weekly service and to receive $6,000 per year for a period of four years. The contract provided there were to be two eastern termini, St. Louis and Memphis. The trails from these two points should converge at Little Rock, thence the line should extend southwestward by Preston on Red River to the Rio

Grande above El Paso, and thence on to the Pacific. As finally established, the stage route through Texas was as follows:

From Franklin, near El Paso, to Fort Shadburn, near the Colorado, 458 miles; from Fort Shadburn to Colbert's Ferry, on Red River, 282 miles.

It touched the following places between El Paso and Colbert's Ferry:

From El Paso, crossing the Pecos near the mouth of Delaware Creek, down the Pecos 120 miles to Horsehead Crossing. From here the trail struck out in a direction slightly northeast, across the desert, crossing the headwaters of the Concho, going thence to Fort Shadburn on the Colorado, passing old Fort Phantom Hill, thence to Fort Belknap on the Brazos, by Jacksboro, Bridgeport, Gainesville, and on to Colbert's Ferry.

The trip from San Francisco to St. Louis generally took from twenty-three to twenty-five days. Occasionally mail would come in several days late; sometimes a few days ahead. During the whole way through Texas the road was not more than a trail. One passenger reported that his stage overturned three times on a short strip of road east of Fort Belknap.

One of the greatest difficulties which the proprietors of this enterprise encountered was the theft of their horses and mules by the Indians, who stole animals by the hundreds. In order to avoid the heart of the Comanche country, the route was diverted between Fort Belknap and El Paso more than 100 miles south of the Marcy trail, but the Indians seem to have soon found this out and pestered them just about as much on this southern route as they would have done had they gone straight through.

There was much criticism in the North of the establishment of the route through the Southwest, and it was charged that this was done by democratic influences. The good answer given, however, was that this way escaped the winter snows that would have made the Northern route impossible.

UNITED STATES TROOPS GUARDING OVERLAND MAIL

[Reproduced from an Old Drawing]

Passenger, mail and express service was provided by these stage coaches.

The company's equipment consisted of more than 100 Concord coaches, 1,000 horses and 500 mules, and the enterprise employed nearly 1,000 men. It began a semi-weekly service but was soon promoted to six times a week, and its operations had the effect of greatly advertising and aiding the settlement of that part of Texas through which the stage line passed between Gainesville and Fort Belknap. The service was continued until the breaking out of the Civil war, when the overland California mail passed away, to be replaced a few years later by transcontinental railway lines.

In the *Texas Almanac* of 1860 there is an advertisement of through passenger traffic from New Orleans to San Francisco for a fare of $200. Boats from New Orleans to Indianola, stage to San Antonio, where there was a transfer to the main line to San Diego, where connection was made with a steamboat for Frisco. The advertisement reads that armed guards go with each coach through the Indian country.

In 1860 there were thirty-one stage lines in Texas reaching almost every section of the then settled portions of the state. One of these was a combination of steamboat and stage from Galveston to Crockett, which carried the attractive headline advertisement:

"Galveston to Crockett via Liberty in 45 Hours."

Boats left Galveston three times a week and at Liberty connected with stage lines for various points in East Texas.

CHAPTER LXIV

THE GERMAN ELEMENT IN TEXAS

It is estimated that in 1850 one-fifth of the white population in Texas were Germans. The revolutions in Europe of 1848 and 1849, and especially the upheavals in Germany, drove thousands of people to foreign lands, and many of them came to America. Between 1847 and 1850, 15,000 German immigrants landed in Galveston and scattered over South and Southwest Texas, but long before this great influx there had been since 1820 a constant stream of Germans who had helped bear the hardships of the colonial period and win the independence of Texas.

In 1818, while Texas was yet a Spanish province, one Hecke, a former Prussian military officer, visited here and afterwards wrote a book telling his home folks of the glory of the country, and advocating its purchase from Spain and the establishment here of a German colony, which would make Prussia rich and powerful.

The old Baron de Bastrop, who played a very conspicuous role in the success of Austin's first colony, is said to have been a Prussian. In Chambers' recent "History of Louisiana," he writes:

"The Baron de Bastrop was one of the most picturesque and commanding figures ever associated with the early history of Louisiana and Texas. He was a man of giant proportions, magnetic and winning personality, was a native of Holland who at an early age entered the service of Frederick the Great of Prussia as a member of that monarch's famous body guard."

This guard was composed of picked men, no one of whom was under six feet in height. It was said that Frederick had agents

scouring Europe to obtain recruits of the proper height and quality to fill the ranks of his guardsmen. When a suitable one was found, he was either induced or kidnapped. For distinguished services while a member of this guard, he was ennobled by the Prussian king with the title of Baron de Bastrop. His original name seems to have been Philip Neri Tut. He fled from Holland in 1795, to escape the invading French army, and sought refuge in Louisiana, where he took the oath of allegiance to Spain. He had a great land grant in Louisiana, a part of which was negotiated to Aaron Burr when he planned his filibustering expedition into the Southwest.

When Louisiana was sold to the United States, the old Baron preferred to remain a Spanish subject, and removed to San Antonio, and was there in December, 1820, when Moses Austin reached that place. Wortham says that the Baron "was now living in great poverty in a single room in San Antonio de Bexar, but had much influence with the Spanish authorities."

Austin had formed a chance acquaintance with Bastrop some years before, and it is generally conceded by all students of Texas history that Bastrop's intercession with the Spanish governor saved Austin from expulsion from Texas and was the indirect means of his procuring his first grant.

He was named as commissioner to make titles to Austin's first colonists, and assisted in locating them. Later he served as the delegate from Texas in the convention at Saltillo, which framed the first constitution of Coahuila and Texas. He received a Mexican land grant in what is now Bastrop County, and established the first German colony in Texas on the Colorado River, about thirty miles east of the City of Austin, in 1823. For sixteen years, until the founding of the city of Austin in 1839, this was the most remote settlement in Texas. Two of these colonists, Jacob Harrell and Becker, had named their settlement Waterloo.

It is said that in the autumn of 1837 President Lamar, with a hunting party, camped near Jake Harrell's cabin, and in the

early morning Jake's little son aroused them with the welcome news that the prairie nearby was full of buffalo. Lamar remembered this successful hunt and the beautiful environment a year later when the capital committee went out to select a site, and, at his suggestion, they visited the vicinity of Jake Harrell's cabin, which became the site of the present city of Austin.

In 1834 a ship bearing German emigrants was wrecked on Galveston Island, and among the passengers were Robert J. Kleberg and his wife, who lived through many eventful years in Texas and reared a family of distinguished sons who have played an honorable and conspicuous part in the development of the state. These early German immigrants found their way to Industry, Cat Springs, and other settlements up the state. Tiling, in his *German Element in Texas,* notes that one-tenth of the names found in the muster rolls of the participants in the war for independence in 1836 were Germans, and that twenty Germans were with Fannin's men in the slaughter at Goliad.

In 1838 a Germania Society was organized in New York for the purpose of establishing a German colony in Texas. Men of all stations in life—professional men, trades people, and mechanics—joined it, and a boat containing 130 people reached Galveston on Christmas Day, 1839. Mr. Tiling says that from "the best information obtainable, there were ten thousand Germans in Texas in 1840, twenty thousand in 1845."

In 1842 fourteen German princes and noblemen organized a society for the purchase and colonization of lands in Texas. Among them was the eccentric Prince Ferdinand von Solms Braunfels. This society began to send immigrants to Texas, but made very poor provisions about procuring lands for them, and Prince Solms came over in 1844 to hurry matters along. The first emigrants sent over by this society consisted of 100 families that landed in Indianola in December, 1844, where they celebrated a sad Christmas. They lived there in tents and wooden sheds for two months awaiting the slow, tedious march

into the interior, while Prince Solms was scouting about the country, hunting a suitable place to establish them. He selected and laid out New Braunfels, to which he generously gave his family name.

The most conspicuous and successful of the leaders of this movement was von Meusebach, who came over in 1845 and who remained here helping locate his people for several years. Prince Solms had made a conspicuous failure, and was trying to get out of the country as quickly as he could when von Muesebach arrived, and he says:

"I found Prince Solms in Galveston with an attachment against him, taken out by some creditor of the company."

He raised the attachment and Prince Solms went home, leaving the work in the abler hands of von Meusebach.

Several thousand emigrants were now on their way and von Meusebach bestirred himself to find a location for them, which he did on the Perdenales River, founding Fredericksburg in 1846.

From October, 1845, to April, 1846, thirty-six German ships landed over 5,000 emigrants at Galveston. Von Meusebach ably directed their transportation inland, and helped to locate them, principally in the German settlements north of San Antonio and west of Austin. About the time these emigrants were landing in Galveston and Indianola, General Taylor's army for the invasion of Mexico was in Corpus Christi, and 500 of these Germans enlisted in the American army for the invasion of Mexico.

Von Meusebach went among the Comanche Indians on the Llano and San Saba, assembled them for a pow wow, where he met 500 Indian warriors and negotiated a treaty with them. The opening of this vast territory and the location in it of these German settlements was one of the most important events in the early history of Texas.

Very few of the Germans were slaveholders. They opened their own farms, and although many of them were highly edu-

JACOB FRANKLIN WOLTERS

cated men, they devoted themselves to hard labor to earn a livelihood, and with their accustomed industry and thrift soon became comfortable and even prosperous. When the Civil war approached they were overwhelmingly against secession, although many of them ultimately joined the Southern army. Others holding out suffered great indignities at the hands of those who inflicted punishment upon Union sympathizers during the war.

The Germans have made a great contribution to the development of Texas and among the descendants of these pioneers are found men and women who typify our best citizenship. Gen. Jacob F. Wolters, who has long been a leading character in public affairs, is a grandson of Jacob Wolters, who came to Texas in 1834 and settled at Industry, in Austin County. His maternal grandfather, Louis Wink, was a student in the University of Bonn when the revolution of 1847-48 started in Germany, and joined Carl Schurtz and upon the collapse of the liberal movement fled to America.

CHAPTER LXV

POLITICS OF THE FIFTIES

We now come to the era when Texas adopted the "American Plan" of party alignments, where men and issues are debated and decided in noise and tumult and where party affiliation is higher than reason or principle.

In the colonial days there had been an issue between those who were sincere in their adherence to Mexico, of whom Austin was the leader, and a radical element which favored independence and were impatient for the time to declare it.

The Whartons were leaders of this element and hence the reference to the Austin and Wharton factions found in the chronicles of those times.

During the ten years of the republic Houston was the dominant force, and for six of these ten years he was president, and the nearest approach to party lines was between those who were for and those who were against him.

The first four governors of Texas were chosen for personal reasons.

Henderson, the first governor, was elected in 1845 without serious opposition and retired after one term. His successor, George Tyler Wood, had served in Taylor's army and was elected by his comrades. In '49 he was defeated by Peter Bell, also a soldier in Taylor's army and a veteran of San Jacinto, where he had served as a private. Bell was reelected in 1851, but the following year was chosen to represent the Western District of Texas in Congress, and James W. (Smoky) Henderson of Houston, lieutenant governor, filled out a small remnant of his term.

Coming mostly from the Southern states, our people then, as now, were Democrats, and there were too few dissenters to raise an issue during the first ten years of statehood. Then, too, the Democratic party had brought about annexation over the opposition of the Whigs, and this was an added reason, if one were wanted, to make our people its adherents. That party had espoused and backed the war with Mexico which all Texas regarded as a holy crusade.

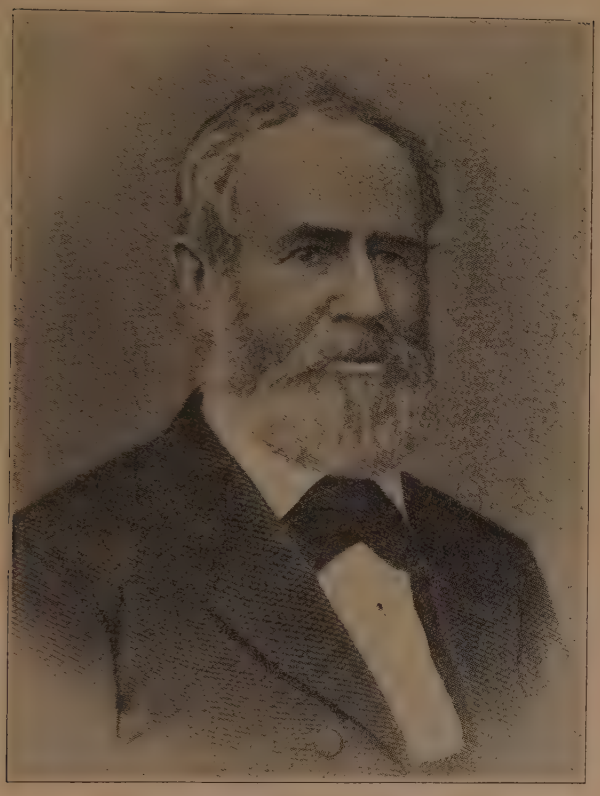
The first Democratic convention ever held in Texas met at Austin on February 21, 1848, to select delegates to the national convention at Baltimore. Thirty-five counties were represented. The delegates chosen supported General Cass of Michigan for President, and in the election in November he received 10,668 votes, while General Taylor, the Whig candidate, polled 4,509.

In 1852 the Whigs held two conventions in Texas, one at Tyler and the other at Houston, and sent delegates to the national convention who supported Filmore, who was defeated in the convention by Gen. Winfield Scott, and the defeat of Scott marked the end of the Whigs as a national party.

The next year (1853) the Whigs supported William B. Ochiltree of Nacogdoches for governor, but the Democrats centered on E. M. Pease and he was easily chosen.

Out of the wreck of the Whig party, the American, commonly called Know Nothing party, gathered many followers, and in 1855 this element, voicing the opposition to democracy in Texas, held a state convention at Old Washington on the Brazos and named a ticket headed by Dan Dickson for governor. But the opposition was not strong enough to arouse the Democrats to sufficient activity to get a state convention together, and they voted for and reelected Governor Pease, as they had done by common consent two years before.

In 1856 the Democrats were able to hold the national party together. The Whig party was dead, the Republican not yet born, and the Know Nothings made only a noisy showing.



GOVERNOR E. M. PEASE

Three Times Governor of Texas

Senator Houston's objection to the Kansas-Nebraska Bill met violent opposition in Texas, where the Democratic leaders had announced it as a great party measure. A Corsicana paper published a statement that he had basely and treacherously betrayed the cause of the state and asked, "Will Texas endorse this course and tamely submit not only to be misrepresented but have her interests assailed by Houston in conjunction with his abolition allies? Is there not enough of the spirit of '76 and '36 in Texas to defend against the attacks of our own senator?"

The *State Gazette,* published at Austin, was edited by John Marshall, who had come to Texas from Mississippi a few years before, and under his spirited management it became the leading organ of the party and devoted its columns to continuous bitter attacks on the Know Nothing encroachment and Houston's apostacy.

No less than twenty-two county conventions held in the fall of 1855 adopted resolutions endorsing the Kansas-Nebraska Bill, and disapproving Houston's attitude. Many of them recommended that the State Legislature demand his resignation from the Senate.

The Hayes County convention declared that the many past services of Houston only added to his present shame and infamy because of his base and traitorous desertion of democracy and the just cause of the South.

The Cass County convention declared that he had violated the confidence reposed in him by his constituents, and ought to resign his seat so that a man who would became the exponent of their sentiments and the defender of their rights might be elected.

Even his home county, Walker County, joined in this clamor against him. Resolutions were adopted at Huntsville to the effect that he had forfeited all claims to Democratic support, and that it was the bounden duty of the legislature to pass resolutions instructing him to vacate his seat in the Senate.

Many of the county conventions organized Democratic associations authorizing the appointment of vigilance committees, the duties of which were to look after the welfare of the party, and to prevent the spread of Know-Nothingism and Abolitionism.

Following these widespread attacks and voicing the sentiments of the many conventions had demanded it, the next session of the Legislature passed a resolution approving the course of Rusk in voting for the Kansas-Nebraska Bill and disapproving that of Houston in voting against it.

In January, 1856, while the Legislature was in session a Know-Nothing conclave was held in Austin and Houston addressed it, declaring sympathy for "America for Americans" and some of the other catchy slogans of the ill-fated American party. But the sorry showing it made in the year's campaign against Buchanan eliminated it as a factor in national and local politics. But the Democratic party leaders in Texas, realizing that they could not longer ignore the opposition, now dignified by the name of Houston, accomplished an organization and held the first state-wide Democratic Convention, which assembled in the Baptist Church at Waco in May, 1857. There were ninety-three counties represented by 254 delegates.

Louis T. Wigfall, who had lately come to Texas from South Carolina, and who was known as a radical secessionist, addressed the convention upon state rights and prepared the way to a seat in the United States Senate.

A straight Democratic ticket was named, headed by Hardin R. Runnels of Red River County, who was then lieutenant governor of Texas.

The activities of General Houston and his affiliation with the opposition had led to this party organization, which was a defiance of his power and place, and he quickly accepted the challenge by announcing as an independent candidate for governor, and this brought on our first real party campaign in Texas.

Opposing candidates "stumped the state." All the bitterness and venom of such campaigns found vent with full fury. It was now discovered after more than twenty years that General Houston was a coward and had been forced to fight the battle of San Jacinto while drunk, and that the victory had been won by others in spite of him.

Judge Reagan was the Democratic candidate for Congress in the Eastern District against Lemuel D. Evans, and in the joint debate at Jefferson he confronted Evans with a letter which contained statements Evans could not answer, and in default of a reply he sprang to his feet and drew his pistol. But the quiet and dignified Reagan, whom we remember in the grandeur of his old age, was as quick as his opponent and they faced each other with drawn revolvers. Judge Reagan calmly observed, "Evans, let's put up our guns. I don't want to kill you, I want to go to Congress," and bloodshed was averted.

So now Texas had at last reached "normalcy," and adopted the American plan of debating and deciding upon men and issues in noise and tumult where petty prejudice often overshadows reason and judgment.

Runnels was elected by a majority of 9,000 votes, and his sole claim to fame is that he once defeated Sam Houston for governor.

CHAPTER LXVI

HOUSTON'S LAST CAMPAIGN

There was much talk of secession in the 1857 campaign, and Governor Runnels in his inaugural address spoke of the prospect that Texas might soon "assume the guardiansihp of her own destinies."

The Seventh Legislature in January, 1858, passed a resolution calling for an election of delegates to a convention of Southern States, "whenever the executives of a majority of the slave holding states shall determine that such a convention is necessary."

This same Legislature elected Justice John Hemphill to succeed Houston in the United States Senate and it was said that the old man was retired for life. He was now in his sixty-seventh year and had been in public life for forty years. He served two terms in Congress from Tennessee, 1823-27, and had made a wide acquaintance with the leaders of that day. When he returned to Congress as a senator from Texas in 1846 he had the prestige of the great renown he had won in the liberation of Texas and leading it into the Union.

The eyes of the world were upon him as he returned to the National Congress after an absence of twenty years and a contemporary writer who witnessed the event said:

"It was a proud day when the Texas senators took their seats. Greatest of the Texans came that wondrous man who stood by the young Republic leaning on his rifle and rocked her infancy in those far off wilds. There he stood on the threshold of the Senate chamber, bringing in his arms not like the triumphant generals of Rome the fine gold or precious stones or distant barbaric princes lashed to his victorious car—but a new and vast empire. There he stood, the tall, erect, careworn chieftain,

his locks prematurely gray by the hardships of revolutionary frontier life. His wounds were upon him for he had bled in the service of two republics."

During his twelve years service in the Senate he had seen and always denounced the tendencies towards disunion and was equally bold in condemning the extremists North and South. Speaking on the question of a territorial government for Oregon in 1847, he declared, "The Union is my guiding star and upon it I fix my eyes to direct my course."

Prior to 1820 the Southern States all favoring slavery and the Northern States all opposing it, faced a fight not necessarily for or against its abolition, but for and against its further extension.

This fight reached its first climax when the territory acquired by the Louisiana Purchase sought statehood and Missouri was ready to enter the Union and resulted in the great compromise which let that state in with slavery, but prohibited the further incorporation of slave territory north of 36-30.

This was thought to settle the matter for all time and to prohibit further slave states out of the Louisiana purchase. Climatic and economic conditions largely dictated against further slavery north of the compromise line. But the great leaders who solemnly settled the matter for all time in 1820 did not foresee the admission of Texas or the acquisition of the far West which was won in the Mexican war twenty-eight years later.

Then came the second great compromise of 1850 which fixed the boundaries of Texas and admitted California as a free state and for it the hope was entertained that it settled the slavery question arising out of the admission of states to be carved out of the newly acquired Mexican territory.

In 1853 and 1854 the slavery issue settled to a deadlock. Kansas and Nebraska, under the spirit of the Missouri Compromise, would come in as free states. The other territory north and west was unsuited for slavery.

The cultivation of cotton by slave labor had become the great industry of the South and had ushered in what Webster declared was its golden era.

While there were abolitionists in the North who loudly demanded the emancipation of all slaves, and extremists in the South who demanded the right to have and hold their slaves anywhere in the Union, yet neither of these factions controlled either section.

While the northern people were opposed to slavery, the great majority of them were willing to confine their opposition to its further spread and to await further events to gradually bring about its elimination. And the great majority of the people South were willing to forego the further spread of slavery if they could be left alone with their plantations and negroes.

Such sentiments wisely played upon by the patriotic leaders North and South had made these compromises possible and might in time have wrought emancipation with payment for the property rights destroyed.

Such was the situation following the Compromise of 1850.

Calhoun died in that year and in 1852 Webster and Clay passed away, and the pacific influence of these great leaders was gone while a new generation of bitter radicals vaulted into power. The Senate chamber was still draped with the emblems of mourning for Webster and Clay when Douglass "hurled the bolt" which dispelled forever the spirit of compromise and furnished fire brands in the hands of extremists North and South.

Stephen A. Douglas wanted to be President of the United States and conceived a foolish plan to win the plaudits of the solid South while holding the support of northern Democrats and with a stage-like strategy brought forth the Kansas-Nebraska legislation under the catchy name of popular sovereignty.

He would let the people of the territories decide for themselves whether slavery should exist in these sections which had by common consent long been looked upon as free territory.

The Democratic party of the South seeing a chance to spread slavery into regions that had been considered free was quick to espouse the Douglas bill either unmindful or indifferent as to the results which would ensue.

Senator Houston saw the awful evils which would follow the abrogation of the Missouri Compromise and fought Douglas with a sublime courage which will gather grandeur with the ages.

The defeat of Houston in 1857 was looked upon as a repudiation of his Union sentiments, and this emboldened radical leaders to openly advocate many measures looking to perpetuity, protection and extension of slavery which had only been whispered theretofore. Throughout the southern states, and in Texas as well, it was now openly declared that restrictions against African slave trading should be removed. The supply of slaves did not equal the demand. They were very expensive and the agricultural pursuits of the South suffered in consequence. These advocates argued that slavery was a benign institution, just as good for the negro as for the white man. In public addresses and in the newspapers of the day, the institution was loudly defended on economic, religious and social grounds, until gradually many people came to look on it in that light.

As early as 1856, Marshall's *State Gazette* began to register discussions relating to the reopening of the slave trade as they emanated from other states. In an editorial of March 1, 1856, the *Gazette*, commenting on a discussion in the Georgia Legislature on the question of repealing all laws obstructing the importation and sale of slaves in Georgia, said that the discussion was a good move because all laws interfering with the freedom of trade were wrong and that the law of supply and demand should control every department of commerce. "Indeed we would urge the importation of negroes from Africa for it would not only improve their physical condition but add to their happiness, while at the same time serving the purpose of civilization in our own country."

The argument was freely advanced in Texas, as elsewhere, that there were not enough slaves in the South and that since every planter in Texas felt the want of slave labor, this want cramped the resources and retarded the general prosperity of the state.

The Democrats of 1859 must have longed for the good old days of Lafitte's slave market on Galveston Island when negroes were sold by the bold buccaneer at one dollar per pound.

The Parker County convention (1859) condemned the act of Congress making the African slave trade piracy. The Guadalupe County convention declared slavery a social and political blessing, and morally right, and could therefore see no reason why the southern people should not have the privilege of purchasing slaves in the best market. The delegates from this county to the Houston convention of 1859, which was shortly to be held, were instructed to express these views in plain terms.

The resolutions of the convention of Fort Bend County were the strongest yet. They declared that all congressional acts inhibiting the African slave trade were a standing reproach and an offensive stigma on the institution of slavery, which in the South was regarded as a great and signal good, both to the white and negro races, and clearly defendable on moral, social and religious grounds.

While these sentiments were by no means universal, yet they were so openly and freely expressed that a large portion of the public had by 1859 come to favor a reopening of the slave trade. Along with this propaganda, there was a demand for the acquisition of Cuba and sympathy and encouragement for the filibustering expeditions that were being financed and equipped in this country against South American countries.

While the advocates for reopening the slave trade were not successful in inducing the Democratic party in the Houston convention to adopt a plank favoring it, yet this convention went on record favoring the acquisition of Cuba and renamed Runnels for governor. Two years later the secession convention amended

the state constitution so as to forbid any owner from emancipating his slaves. Governor Runnels had no accomplishments as a stump speaker and the party had Lubbock, Oldham, Wigfall and other spellbinders do the campaigning. But the old Cherokee chief did his own speaking. Of Lubbock, whom Houston had befriended in other days, he said:

"Frank Lubbock has every characteristic of a dog, but gratitude."

Of Oldham, he said:

"You all know I suppose that he robbed a bank in Arkansas and threw its books in the river on his way to Texas."

Wigfall was his pet abomination:

"Will you be dominated by that drunken blatherskite from North Carolina?"

A Federal officer who heard Houston speak at San Antonio when he was threatened with violence and who listened to his awful abuse of his enemies wrote to a friend in Ohio:

"Of all men I ever saw encompassed by dangers and frightful enemies Sam Houston is perhaps the nearest to that man who knows no fear."

There were thousands of Texans who regretted for sentimental reasons the defeat of Houston two years before, and many of them changed their vote for him in 1859. His plea for the Union won him the solid Union vote, but in almost every section secession leaders were elected to the Legislature the same day that Houston was chosen governor. Runnels was denounced on the frontier for his Indian policy. He had in a feeble way tried to protect the reserve Indians from destruction which should have been to his credit. Frank Lubbock, who was the leading spokesman for the Democratic ticket and who visited every section of the state, says that the frontier troubles were the chief cause of Runnels' defeat.

In the election Houston received thirty-six thousand two hundred and fifty-seven votes and Runnels twenty-seven thousand, five hundred, a majority of nearly nine thousand in Houston's last campaign.

CHAPTER LXVII

COLLAPSE OF THE DEMOCRATIC PARTY

Houston hoped that his election by this decisive majority was an indication that the people of Texas were for the preservation of the Union. This was the keynote of his campaign and his views against secession were so well-known that this was the logical deduction from the result of the election. But whatever hopes he and the Unionists had were soon to be dispelled.

The Legislature that had been chosen at the time he was elected convened in December, 1859, and was dominated by radical leaders. J. Pinckney Henderson, who had been elected United States senator on the death of Rusk, had died the following year, and the governor had appointed Matthew Ward to succeed him. The new Legislature was confronted with the necessity of electing Henderson's permanent successor. Louis T. Wigfall was the most outspoken and one of the bitterest of the secession leaders in Texas, and had strongly opposed Houston's election in the recent campaign. The Legislature promptly elected Wigfall to the United States Senate, the sentiment being that Texas needed an extremist to represent it in the national council. It is hard to harmonize the election of Houston to the governorship and Wigfall to the senatorship in the same year, but the answer is that Houston's victory was a personal one. He polled the Union vote and thousands voted for him on personal grounds, while the frontier counties hoped that he might be able to formulate and carry out a better Indian policy.

Houston was much angered at the attitude of the Legislature, and refused to make his inaugural address to that body, but delivered it from one of the porticos of the capitol to the country at large. In this address, as well as in his messages to the

Legislature and his later addresses, there was a calm, dispassionate wisdom, an unanswerable appeal against secession which, though it fell on deaf ears then, was awfully vindicated in the next four years.

Almost immediately after he went into office, he received an invitation from the governor of South Carolina to join the other slave-holding states in a concerted action which included "military preparation for an emergency." He transmitted this invitation to the Legislature, accompanying it with a well-studied message in which he discussed the problems of the hour. After the lapse of nearly seventy years, this message is well-recognized as one of the great state papers of America.

The presidential election of 1860 was now approaching. Fremont, the Republican candidate for President against Buchanan in 1856, had polled nearly one million four hundred thousand votes, and it was now foreseen that the anti-slavery states would enter the 1860 campaign as a unit and could count on a much larger vote than Fremont had polled. The Democratic party was hopelessly divided. Douglas, who had thrown the empty boon of the Kansas-Nebraska Bill to the South in 1854, had now alienated the southern people in his opposition to the admission of Kansas as a slave-holding state, and could count on no support from the southern states. Houston was widely talked of as the logical Democratic candidate. Thousands of Democrats in the North were willing to support him because of his known Union sentiments. But conservative leaders North and South were crowded to the rear, and the radicals were in absolute control in both sections.

In 1856 a Democratic caucus held in Austin had extolled the Douglas Bill as a Democratic doctrine and had condemned Houston for voting against it. In 1860 the State Democratic Convention met at Galveston to elect delegates to the National Convention, and condemned Douglas.

On the 21st day of April, 1860, there was a small gathering of leading Texans on the San Jacinto battlefield to celebrate the

twenty-fourth anniversary of that great victory, and they issued a message to the people of Texas and the United States, urging that all sections loyal to the Union unit in nominating General Houston for the presidency.

Three Democratic conventions were held during the year. Douglas succeeded in controlling one faction of northern Democrats, which nominated him. The extremists of the South nominated Breckenridge of Kentucky, and the Unionists of the South, after balloting between Houston and John Bell of Tennessee, nominated Senator Bell.

With the Democrats split in three factions, and the Republicans solid for Lincoln, it was well known in the summer and autumn of 1860 that he would be elected and the southern states would secede.

In this awful hour, when no man's mind was calm and when war and disaster were inevitable, General Houston stood at the close of his career in a towering magnificent manhood that challenges the admiration of the generations that have lived to see his prophecies verified and his wisdom vindicated.

CHAPTER LXVIII

THE KNIGHTS OF THE GOLDEN CIRCLE

Turbulence and violence were greater in 1860 than they had been since the Revolution of 1836. All of the newspapers were full of stories of crimes committed everywhere. An editorial of February 3, 1860, stated that "high-handed criminality stalks abroad through the land, and bloody deeds of violence and of vengeance are transpiring constantly to mar the peace and harmony of society. Human life hangs on the merest thread. No man's life is safe."

The atmosphere was filled with excitement and alarm. Incendiary fires occurred in many parts of the state. A $300,000 conflagration of incendiary origin occurred in Dallas, and about the same time there were other fires at Denton, Pilot Point, Belknap, Gainesville, Waxahachie and other places. These atrocities were laid to certain abolition preachers who had been expelled from that part of the country the year before. Later in the year a similar disaster was visited on Henderson, which led to the hanging of several negroes.

These things were pointed to by the Democratic press as conclusive evidence of the machinations of northern abolitionists, and aroused public indignation and disorder to a high point. The vigilance committee organized at Dallas immediately after the great fire hanged three negroes in the presence of a large assembly of people. The vigilance committee of Austin County was given full authority to arrest any suspicious character and hang him if necessary. Three men were hanged at one time by the Fort Worth committee for inciting slaves. Several ministers of the Gospel were hanged either for their abolition sentiments or for tampering with slaves.

As early as November, 1860, mass meetings were held throughout the state demanding that the governor convene the Legislature or provide for a convention of the people to effect secession. In Tarrant County these resolutions added "that should he fail or refuse to do so, a state convention should be held whether or no." In Brazoria County resolutions were adopted, and a committee of safety was appointed and an organization of minute men set up to cooperate with the committee. Similar arrangements were made in many other counties, and in the terror and confusion of the hour the people were taking the law in their hands and administering it as passion or prejudice or expediency dictated.

To aid the solidification of the secession sentiment, an organization known as the Knights of the Golden Circle actively operated in Texas during this year. This institution had been in existence in the South for a number of years, and it had been openly charged that it was instituted by John C. Calhoun and others as far back as 1835 and had for its object the dissolution of the Union and the establishment of a southern empire.

Bancroft in his history of Texas says that this organization was originally formed for establishing an empire, the foundation of which was to rest on the institution of slavery. "The boundary of this visionary empire was to be the circumference of a golden circle, as it was called by its projectors, having Havana for its center and a radius of sixteen geographical degrees, extending to the Isthmus of Panama on the south and to Pennsylvania on the north, including the West Indies, the islands of the Caribbean Sea and the largest portions of Mexico and Central America. Under the auspices of this society, the filibustering movements during the period 1850-1857 were undertaken, but on the failure of Walker's expedition in Nicaragua, the organization was practically broken up. The more persistent of its members, however, still devoted their energies to the disunion movement."

In 1860 two members of the order, George A. Bickley and his nephew, were employed to organize castles in Texas, receiving as remuneration for their work initiation fees paid by the members. Such castles were soon established in many towns, and among the knights of this order were members of the Legislature and prominent politicians.

In a pamphlet circulated by Bickley, the state organizer, in October, 1860, he said that the Knights of the Golden Circle "constitute a powerful military organization as a nucleus around which to hang such political considerations as which will, if well managed, lead to the disenthrallment of the cotton states from the oppressive majority of manufacturing and commercial interests in the North."

With abolition emissaries inciting the slaves and burning towns, and the Knights of the Golden Circle organizing sentiment for disunion, the presidential election approached and our people were rapidly solidifying for the irrepressible conflict.

Governor Lubbock had canvassed the state in 1857 when he was a candidate for lieutenant governor with Runnels, and canvassed it again in 1859, and was probably as well acquainted with the sentiment and the people as any other public man of his day, and he says in his Memoirs,

"As an original question, secession perhaps would have failed to carry in Texas, but the six leading cotton states, having already seceded, banded themselves together in a new Confederacy, and formed a new government; Texas was apparently confronted with the alternative of becoming a part of the new compact, remaining in the Union, or resuming her sovereignty as a separate Republic. Had she desired to desert her sister states of the South in this hour of need and peril, and resume her former station as a Republic, it was realized that she could not preserve a neutral attitude, and maintain herself in that position. The idea of remaining in the Union, and thereby arraying herself with the avowed enemies of the south, was not

to be thought of. The course that was adopted was the only one open to her. The northern states had generally sympathized with our Mexican enemies in our struggle for independence, and had opposed our admission into the Union, and our people really preferred to fight Massachusetts rather than Louisiana, if fighting should become necessary."

It was openly declared from every platform in the South during the presidential campaign of 1860 that the election of Lincoln would be a just cause for secession. On November 12, 1860, immediately after the result of the election was known, South Carolina ordered an election to determine if it should secede, and on December 20th that state adopted a secession ordinance. This was quickly followed by Mississippi on January 9th, Florida January 10th, Alabama January 11th, Georgia January 18th, Louisiana January 26th, and the eyes of the world were now on Texas.

CHAPTER LXIX

THE SECESSION CONVENTION

Immediately after the result of the presidential election was known, petitions were circulated throughout the state requesting Governor Houston to call a special session of the Legislature, looking towards an ordinance of secession. Judge Reagan, congressman from the eastern district of Texas, had proposed in October that the slave-holding states hold a convention and demand of the free states a compact that their constitutional rights would not be invaded. Houston now sought to frustrate the secession leaders by acceding to this suggestion, but the die was cast and there was nothing that he or any other earthly power could do to stay the storm that had been aroused by the radical leaders.

Wigfall denounced Reagan's suggestion with the statement that the North would not yield an inch. He and the radical leaders of the South interpreted Lincoln's election as a challenge to slavery which would be followed up by its abolition. The radical leaders of the North interpreted it in the same way. But men like Lincoln in the North and Reagan and Houston in the South could have found a common ground which would have safeguarded slave property for the time being but prevented its spread into the territories.

On December 22, 1860, Mr. Lincoln wrote Alexander H. Stephens:

"Do the people of the South really entertain fears that a Republican administration would directly or indirectly interfere with the slaves? The South would be in no more danger in this respect than it was in the days of Washington. I suppose however this does not *meat* the case. You think slavery is right and

ought to be extended, which we think is wrong and ought to be restricted."

In December, 1860, a call was prepared to the people of Texas by O. M. Roberts, then a justice of the Supreme Court; George M. Flournoy, attorney general; W. P. Roberts and John S. Ford, bearing the signatures of more than seventy outstanding leaders in Texas politics, and suggesting the election of delegates to a convention to be held in Austin on the 28th day of January, 1861, for the avowed purpose of "protecting the domestic institutions of the South." It opened with the salutation, "Lincoln has been elected President by a sectional vote. * * * His inauguration will bring a crisis upon us."

Foreseeing that this convention would assemble, and that it would be a representative one, Governor Houston convened the Legislature in special session on January 21st. He was now convinced that further efforts to prevent secession would be in vain, but he urged that the people should be given the opportunity to pass upon whatever plan the convention promulgated.

The campaign was now on for the election of delegates to be held on the 8th day of January. Mass meetings and barbecues were the order of the day, and Union and dis-Union speakers argued the issue everywhere. But the Union element had no strong, aggressive leader except Houston, and the Union sympathizers seemed to lose their courage, many of them not voting. The aggressive leaders of secession on the other hand carried everything before them. The whole movement seems to have been much more spontaneous than has generally been believed.

The Convention which met on the 28th of January, 1861, debated and adopted the ordinance of secession. The two grounds stated for withdrawal from the Union were the failure of the Federal Government to give protection to the people upon the frontier of Texas, and the recent developments in Federal affairs evidencing the intention of "striking down the interest and prosperity of Texas and her sister slavehold-

THE SEVEN WHO VOTED AGAINST SECESSION

TOP ROW, LEFT TO RIGHT—A. P. SHUFORD, JAMES W. THROCKMORTON, LEMUEL H. WILLIAMS, JOSHUA JOHNSON
BOTTOM ROW, LEFT TO RIGHT—WILLIAM H. JOHNSON, GEORGE W. WRIGHT AND THOMAS P. HUGHES.

ing states." This resolution was adopted by the convention by a vote of 167 to 7, Throckmorton, delegate from Collin County, speaking out in strong opposition to the ordinance, as he had opposed secession in the Legislature a few months before. The resolution provided for its submission to the people of Texas on the 23rd day of February, 1861, and, unless rejected by the majority of the votes cast, it was to become effective on the 2nd day of the following March. At this election in February thirty-nine thousand four hundred and fifteen votes were cast for the ordinance and thirteen thousand, eight hundred and forty-one against, a total of fifty-three thousand two hundred fifty-six votes, about ten thousand less than the vote cast in the governor's election the year before. Under these proceedings, Texas went out of the Union twenty-five years from the day its independence from Mexico was declared at Washington on the Brazos, and on General Houston's sixty-eighth birthday.

Judge Reagan, who had withdrawn from the Congress of the United States, reached Austin just in time to participate in this convention. He called on Governor Houston to urge that the state government throw no obstacle against the manifest will of the people who were overwhelmingly in favor of secession. The governor replied, "I was born and have been reared in the South, and have received all of my honors from the South, and I will not draw my sword against my own people, but our people are going to war to perpetuate slavery and the first gun fired in the war will be the death knell of slavery."

The ordinance of secession did not provide that Texas should unite with the other southern states. It merely sought to annul the action taken by the convention on the 4th of July, 1845, by which Texas adopted the annexation resolutions tendered by the Senate of the United States. It will be recalled that when those resolutions were offered the Republic of Texas by President Tyler, General Houston, who had retired from the presidency, had opposed coming into the Union on these terms and stated to Donaldson, representing the Federal Government, that he

favored a formal treaty of annexation so that if Texas should ever desire to do so in the future it could dissolve the compact and retire from the Union. When told it would be impossible to get such a treaty owing to the narrow margin by which annexation was favored in the Senate, he withdrew his objection.

Though Texas could have resumed its independence and maintained itself as an independent nation after the secession ordinance was passed, the leaders who wrought these resolutions had so bound themselves up with the other slave-holding states that it was a foregone conclusion that Texas would enter a confederacy of these states.

During the session, John McQueen, commissioner from South Carolina, reached Texas, and a resolution was immediately passed inviting him to a seat on the president's stand. On the following day he delivered an address inviting Texas to join the other seceding states in forming the Southern Confederacy for the purpose of "perpetuating the institutions of our ancestry and in order to transmit them untarnished to our posterity." Three days later Gen. John Sanford, the commissioner from Georgia, reached Austin, and addressed the convention, urging Texas to unite with the other southern states as such policy was necessary to the prosperity, happiness and safety of all.

On January 30th the convention received a copy of the Tennessee resolutions.

After promulgating the proposed ordinance of secession, which was to be submitted to a popular vote, the next step in the procedure was to secure control of the state government during the recess of the convention awaiting the result of the election. For this purpose a committee of public safety was improvised, invested with extensive authority which gradually encroached until it had complete control of public affairs. Before adjourning, without awaiting the result of the election to be held, the convention chose seven delegates to attend the Montgomery convention for the formation of the Confederacy. This delegation

included John H. Reagan, Louis T. Wigfall and John Hemphill. These delegates sat in the convention which formulated the constitution of the Confederate States, and voted for its adoption on March 11, 1861. The state convention reassambled at Austin and on the twenty-fifth anniversary of the fall of the Alamo, passed an ordinance of affiliation with the Confederacy and twenty-two other ordinances, all of a legislative character covering a wide range of subjects.

It took the state constitution which had been adopted when Texas came into the Union and made many amendments designed to make it harmonize with the new affiliation with the Confederate States. Wherever "United States of America" appeared in the old constitution, they were replaced by "Confederate States of America." Article 8, which dealt with slaves, was radically amended. The old constitution contemplated that an owner might emancipate his slaves, but it was so amended that "No citizen or other person residing in this state shall have the power by deed, or will, to take effect in this state or out of it in any manner whatsoever directly or indirectly to emancipate his slaves."

On March 4th the convention passed Decree No. 12 requiring all state officials to appear in three days and subscribe to an oath to support the constitution of the Confederacy, and on the 16th a decree was recorded reciting that Sam Houston, governor, and E. W. Cave, secretary of state, failed and refused to appear and take the required oath, "therefore be it ordained by the people of Texas in convention assembled that the offices of governor and secretary of state are vacant." Edward Clark, lieutenant governor, was directed to assume the functions of the chief executive. Thus in his old age and in poverty Sam Houston passed from public life ending in a consistent dignity which amounts to grandeur, a career which for human interest and lofty achievement has few parallels in all history. As we go on down the annals of Texas, through succeeding periods of war

and peace, other leaders come and go, some of them great men, but no one of his calibre or stature is found in the long line of leadership that has arisen in these sixty years. His name and fame are fresh today, and the popular mind holds for him an interest and a reverence accorded no other man in our history.

CHAPTER LXX

TEXAS AT WAR

The secession convention named a committee of public safety of nineteen members, and it at once exerted itself to rid the state of Federal troops. A very large part of the then standing army was stationed in the various posts in this state. There were garrisons at San Antonio, Brownsville, along the Rio Grande and the Indian frontier—in all twenty-six hundred twenty-four men—with government munitions and various military supplies. The veteran Gen. David E. Twiggs, who had been in the army since his youth and who was in actual service throughout the Mexican war, was in command of the Department of Texas with headquarters at San Antonio. He was a Georgian, and his sympathies were with the South. The sub-committee of safety made a demand upon him for the surrender of all government property, and the withdrawal of United States troops, to which the old warrior acceded.

Dispatches were sent to Washington advising of these negotiations, and that Twiggs was about to accede to the demands of the new state regime, and he was removed from command, and Col. C. W. Waite appointed in his stead. Colonel Waite would not carry out the tentative arrangements which had been made with General Twiggs, and the secession committee appointed Ben McCullough, Henry McCullough and John S. Ford colonels, with instructions to raise three separate bodies of volunteers and to immediately force the evacuation of San Antonio. Ben McCullough reached the city with a hastily assembled force on the 16th of February, and, without serious objection, took charge of the military post, and afterwards occupied those along the frontier north of San Antonio.

At this time many hoped that the Federal Government would recognize the futility of undertaking to coerce the southern states, and the military authorities of the United States in touch with the local situation favored a removal of all troops from Texas to avoid clash of arms.

After the bombardment of Fort Sumter and the beginning of actual hostilities early in April, it was known that the war was on and the Confederate authorities determined to compel the surrender of the Federal forces in Texas rather than to permit them to withdraw with their arms. As early as the 24th of April a thousand Texas soldiers, about twenty companies, had assembled at Galveston for the purpose of operating along the coast and preventing the withdrawal of the Federal troops. This resulted in a surrender of all of these forces as prisoners of war.

While this was going on, a special commissioner sent by President Lincoln arrived in Austin to negotiate with General Houston, with a view to rendering him such aid as might be necessary to combat the secession movement, and Colonel Waite at San Antonio was instructed to offer his services to Governor Houston for this purpose. General Houston declined this arrangement, and earnestly protested against a concentration of troops or the erection of fortifications in Texas.

The Confederate war department first appointed Col. Earl Vandorn to command the Department of Texas. Before he had accomplished any extensive organization of the volunteer troops that had been mustered in, he was succeeded in September by Brigadier General Hebert, ex-governor of Louisiana and a veteran of the Mexican war.

A great many companies had been organized all over the state, with the hope that they would at once be incorporated in the Confederate army, but up to this time the military authorities at Montgomery had discouraged the enlistment of troops from Texas, with the hope their assistance would not be needed. War spirit ran high, however, and a number of independent companies left the state, each at its own expense hurrying to

the scene of hostilities, where they were organized into regiments and given a chance to participate in the war.

Immediately after the adjournment of the secession convention, there was a rush of volunteers anxious to get into the service. A number of prominent Texans, among them Tom S. Lubbock, B. F. Terry and George Goldthwaite, repaired to the Confederate capital at Montgomery in May and solicited commissions to raise troops for the Confederate service. But the secretary of war advised them that, in his opinion, it would be unnecessary to organize troops in a state so far distant as Texas; that the cost of transportation was too great, and that enough men could be enlisted near the scene of actual conflict, and that the war would be of short duration.

The first call which the Confederate government made on Texas for soldiers was for three thousand men; the second for five thousand. The first Confederate troops to leave Texas were twenty companies of infantry for Virginia.

Terry and Lubbock procured a commission to raise a Texas regiment, and under it recruited Terry's Rangers, which were organized at Houston and were ready to march in August, 1861.

Governor Lubbock estimates that in the fall of 1861 Texas had twenty thousand men in arms, most of them in service along the borders of the state. Hood and Wigfall and Archer were in Virginia; Terry and Tom Lubbock and John A. Wharton in Kentucky; Baylor in Arizona; Ben McCullough in the Indian Territory.

In the last days of 1861, the Legislature of Texas divided the state into thirty-three military districts each to be commanded by a brigadier general. The act provided that all able-bodied men between the ages of seventeen and fifty should be subject to military duty.

An arsenal was established at Austin where cannon were manufactured, copper being brought from Mexico. A cap and cartridge factory was established in the chambers of the Supreme Court.

The penitentiary at Huntsville manufactured each year over one and one-half million yards of cloth, most of which went to the armies.

After ridding the state of Federal troops, Texas commanders, unable at this early date to get into the war east of the Mississippi, made excursions into New Mexico and across Red River into the Indian Territory, where there were Federal garrisons, the one in the territory was driven back into Kansas.

In July, 1861, Brig.-Gen. Henry H. Sibley was ordered to Texas by the Confederate government to expel Union forces from New Mexico and gain this region for the Confederacy. Col. John R. Baylor had already gained a foothold on the Rio Grande, and, after recruiting an expedition into San Antonio, Sibley united forces with him. General Sibley was victorious at the battle of Val Verde and took Albuquerque and Santa Fe but in April was forced to begin the evacuation of New Mexico, due to lack of supplies and reinforcements.

General Hebert did not prove himself popular with the people or the state government. Under his command, the city of Galveston was surrendered to the Federal forces in October, 1862, practically without a struggle, which aroused great resentment all over Texas. About the same time Corpus Christi and Port Lavaca were bombarded by Federal boats. There was a more or less formidable blockade of all Texas ports after July, 1861.

In November, 1862, Brig.-Gen. J. Bankhead Magruder succeeded General Hebert in response to a general desire for a change of military commanders in Texas. He immediately began to plan and prepare for the recapture of Galveston. Two steamboats, the *Neptune* and *Bayou City*, were converted into "cotton clads" (commanded by Commodore Leon Smith) and were manned by Gen. H. H. Sibley's troops, which had recently returned from New Mexico. General Magruder entered the city with troops from the mainland while the boats engaged the Federal vessels by sea. There were four Federal vessels in the

THE SOUTHERN GIRLS URGED THEIR BEAUX TO GO TO WAR

harbor, the steamer *Harriet Lane*, the brig *Westfield*, the gunboat *Owassee*, and the transport *Clifton*. On January 1, 1863, Magruder's land force opened fire on the Federals in the city, and in the meantime the cotton clads arrived in the harbor and attacked the *Harriet Lane*. The Confederate boat *Neptune* was sunk and the *Bayou City* became entangled in the rigging of the *Harriet Lane*. In a hand-to-hand struggle the principal officers of the *Harriet Lane* were killed and she surrendered. The *Westfield* ran aground and the Federals in destroying it killed fifteen of their own men. The Federal forces on the island surrendered to Magruder, but both the *Owassee* and the *Clifton* escaped from the harbor and joined the fleet outside. General Magruder was acclaimed a hero and remained in command of the Department of Texas throughout the remainder of the war.

Major A. M. Lea was on Magruder's staff and when the Federal gunboat *Harriet Lane* was boarded by Confederate soldiers Major Lea came face to face with his son, Lieutenant Lea, second officer on this boat. The boy was lying upon the deck mortally wounded. Captain Wainwright of the *Harriet Lane* was among those killed, and on the next day he and Lieutenant Lea were buried in the same grave, Major Lea conducting the funeral service.

Among the Confederates killed in this battle was Lieut. Sidney A. Sherman, son of Gen. Sidney Sherman, who had commanded a company at the battle of San Jacinto.

In January, 1863, Farragut sent the *Brooklyn* and six gunboats to retake the city, but before this could be done the *Alabama* appeared twenty miles off Galveston and sunk the Federal boat *Hatteras* and caused much excitement in naval circles.

The next Federal forces to occupy the city were in June, 1865, when General Granger came after the surrender.

In September, 1863, the Federals made their second attempt to subjugate Texas when an army of about six thousand was sent from New Orleans to enter the state by way of Sabine Pass. From this point the Federals planned to advance on Beaumont

and Houston and then Galveston. The little fort at Sabine Pass was held by Lieut. Dick Dowling and forty-seven men, and when two Federal gunboats, the *Clifton* and the *Sachem,* attacked it on September 6th they were soon disabled and the other four gunboats and twenty-three transports with the six thousand soldiers hastily retreated back to New Orleans. The two gunboats and their crews of three hundred and fifty men were captured. This defense of Sabine Pass has ever been acclaimed one of the most brilliant events of the war. It saved Texas from invasion and was a victory won against overwhelming odds.

The third attempt to invade Texas came along the Rio Grande. The Federals had some fear that the French in Mexico might join forces with the Confederacy and to prevent this General Banks with an army of six thousand men took possession of Brownsville in November, 1863. The small Confederate force retired before him and Banks occupied Corpus Christi, Aransas Pass, St. Joseph's Island, Indianola, Mustang Island, Pass Cavallo and Lavaca. It was now decided to attempt an invasion of Texas by way of the Red River, and all the Federal forces along the southern coast were withdrawn except a small detachment which held Brownsville for a time.

This fourth attempt was an expedition sent out from New Orleans but it was defeated by Confederate forces before reaching the Texas border. The theatre of the war was now concentrated east of the Mississippi, and further efforts to overrun Texas were abandoned, the Federal forces being concentrated under Grant and Sherman.

Texas strained every nerve to help the Confederacy with men and supplies. It is estimated from the adjutant general's reports that we furnished ninety thousand men for her armies. Governor Lubbock in his message to the Legislature on February 5, 1863, said there were sixty-eight thousand, five hundred Texans in military service, which was an excess of four thousand, seven hundred and seventy-three more than her highest popular vote had ever been. Official records show nineteen hundred and

twenty men, claiming to be from Texas, enrolled in the Federal army. There were one hundred and thirty-five officers above lieutenant colonel in the Confederacy who were from Texas. Among these were Gen. Albert Sidney Johnston, Lieut.-Gen. John B. Hood, Maj. Genls. S. B. Maxey, John A. Wharton and Tom Green. There were thirty-two brigadier-generals and ninety-seven colonels.

CHAPTER LXXI

THE STATE MILITARY BOARD

When the Federal forces that had been protecting our Indian frontier were driven from the state, the border duty they were performing was taken over temporarily by state volunteers. It was expected that the Confederate government would in a short time assume the task of frontier protection, for the financial burden was too heavy for the state. The problems of defense and finance received much attention from the secession convention.

The committee on finance reported March 14th that at least four hundred thousand dollars were needed immediately. It seems, however, that only about eighty-one thousand dollars was actually raised during the sessions of the convention. Of this sum, twenty-three thousand dollars were taken as spoils from the United States army at San Antonio. The problem of financing the war was handed over by the convention to the Legislature, and to Governor Clark, Houston's successor. The military property taken from the United States army was valued at about two million but the supply of arms and other munitions obtained was insufficient for the needs of the state. As soon as the organization of military companies began, an alarming shortage of serviceable arms was disclosed, and agents were hurried out to obtain them.

Texas, like the other gulf states, was plunging unarmed and moneyless into war.

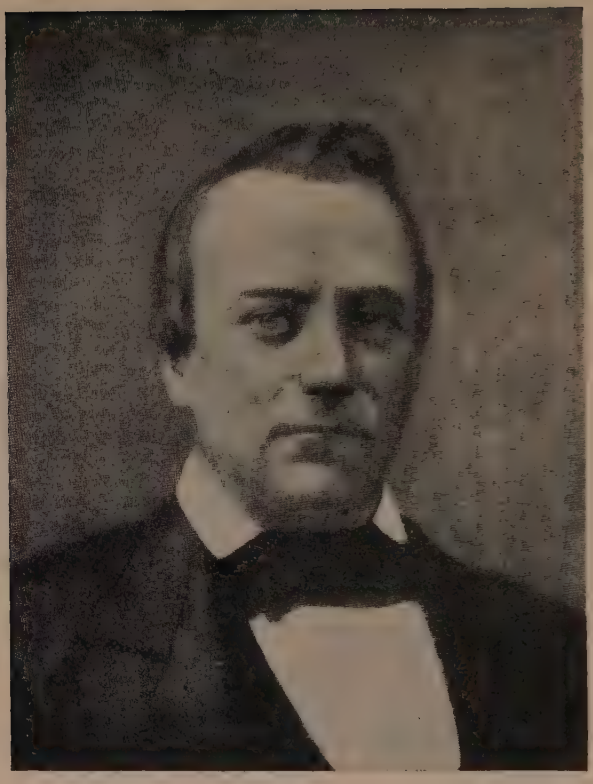
The Legislature in April, 1861, authorized the issuance of one million dollars in eight per cent state bonds, and Governor Clark sent E. B. Nichols to New Orleans to sell these bonds, but he

was unable to do so because of the unsettled condition of the market and the general lack of confidence in either public or private securities. Nor could he exchange them for arms because all the other states were offering cash for all of the arms available, and were sending agents to Cuba, Mexico and Europe to purchase military supplies.

In the meantime Texas had been called upon for its quota of volunteers to the Confederate army. They were to be armed and equipped by the state before being mustered into the service, for the expense of which the state was to be reimbursed. Companies and regiments of volunteers were organized all over Texas and sent to camps for instruction. Here they remained for the long hot summer of 1861, not only without receiving arms but also without receiving money, medicines and many other necessities. They became discontented and disgusted, and complaints piled high on the governor's desk.

In the fall of 1861 President Lincoln's blockade, though not highly effective, had cut off direct trade through Galveston and the other ports. The cotton crop was large, prices in Europe were high, and the staple began moving toward the lower coast, where it would run the blockade and was forwarded by light draught vessels along the bays to the ports of Mexico, for export to Europe. The situation at the end of 1861 was in every way unsatisfactory. The state was more than ever in need of funds. Revenues were falling short of current expenses. The state was unable to borrow, and its bonds were still unsold and seemingly unsalable. Arms, munitions, equipment and clothing must be had for the soldiers if the country was to be defended. Clothing, tools and medicines must be had for the civilian population.

The state had only two assets to which it could look for finances in this emergency. The first was the remnant of the indemnity bonds which Texas had gotten from the United States in the boundary settlement of 1850. There were six hundred and thirty-four of these bonds of a face value of one thousand dollars each in the state treasury. The second source of possible reve-



GOVERNOR FRANCIS RICHARD LUBBOCK, 1862

nue was the year's cotton crop. Most of the bonds had become part of the university and school fund, but they had not been endorsed by the governor of Texas, and it was doubted if the United States Government would recognize as valid an endorsement by Clark or any succeeding governor acting under the secession ordinance.

In January, 1862, the Legislature, upon the recommendation of Governor Lubbock, created a military board composed of the governor, comptroller and treasurer, to which was entrusted the responsibility of financing the war. This board at once undertook to negotiate the United States Government bonds, although, as already stated, they belonged to the school fund. It sent John M. Swisher, an Austin merchant, to England with three hundred of them which he was to exchange for supplies. He succeeded in negotiating one hundred and forty-nine of the bonds but the English purchaser, hearing that the United States would probably refuse to recognize the transaction, demanded the restitution of his money and instituted suit in a Court of Chancery in England and obtained an injunction which tied up the bonds and the money indefinitely. When Governor Murrah succeeded Lubbock in 1863, he exchanged forty-four of them at eighty-five cents for Confederate treasury notes. The military board realized very little or nothing from the three hundred and fifty-four bonds thus disposed of.

In January, 1865, there yet remained in the treasury about two hundred of these bonds, and the military board made a contract with White and Chiles by which they were to take one hundred and thirty-five of them in exchange for supplies and medicines. Although the bonds were delivered to White and Chiles, they never furnished the supplies, and, after the close of the war, George W. Paschal was instrumental in procuring a suit to be brought in behalf of the state to recover them. Some of them still remained in the hands of White and Chiles, but others were held by persons who claimed to be innocent purchasers. The case found its way to the Supreme Court of the

United States, and the opinion of that court, in White vs. Texas, is one of the leading cases construing the status of legislation in the revolting states during the time they were out of the Union. The court held that the contract with White and Chiles was invalid, and awarded the state a recovery of the bonds. One reading the report of the case of White vs. Texas is impressed with the work done by George W. Paschal, who was one of the attorneys for Texas. After the war he was for a time reporter for the Supreme Court and he was so proud of his accomplishments in White vs. Chiles that he copied the opinion of the Supreme Court of the United States in full in the twenty-fifth supplement of the Texas reports and got into a great fuss with the judges of the state court over the expense thus incurred in publishing the volume. In 1876 Governor Coke sent a message to the Legislature in which he gives the closing chapter about these ill-fated bonds:

"I transmit herewith the report of D. C. Giddings containing a detailed statement of the settlement made by him with parties in England and Germany holding indemnity bonds abstracted from the state treasury during the war. The records of this office show the efforts of my predecessors to recover these bonds.

"In 1865 Governor Hamilton sent Morgan C. Hamilton to Europe for the purpose. Later Governor Throckmorton employed B. H. Epperson on a contingent fee of twenty-five per cent of what he might collect. Still later Governor Davis employed Merrick and Durant on a contingent fee of twenty per cent and they with George W. Paschal instituted and prosecuted several suits. As the result of these suits prosecuted in Washington, $47,400 was recovered by these attorneys but none of the money ever reached the treasury of the state, Judge Paschal having paid Merrick $14,000 and kept the balance for his fee. During the eleven years that have intervened the state has never gotten a dollar out of these bonds until Colonel Giddings went to Europe and made the settlement shown in this report."

The efforts of the military board to finance the war through a traffic in cotton brought on some better results. The Texas crop in 1861 had been a good one, but its exportation had been hampered by the blockade so that most of it was still unsold in 1862, and the prices in the interior of the state were very low. The board had no money but if it could induce the farmers and planters to accept state bonds for cotton, it would have something acceptable to exchange for foreign goods, provided it could get the cotton to the Rio Grande.

In February, 1862, the board promulgated a plan for the exchange of eight per cent bonds of the state that had been authorized in 1861, for cotton at fair prices. Agents were to be distributed over the state who would take subscriptions for cotton in exchange for bonds. The agents were instructed to purchase cotton in this way as fast as they could, and arrange for its immediate shipment to Brownsville, where the board appointed a general agent to handle its sale and export.

After a year and a half of these operations, only about five thousand bales had been purchased and transported to the Rio Grande. There were no railroads on the route beyond the Colorado River, and the cotton went by ox wagon trains. Part of the long four hundred miles between the Colorado and the Rio Grande was a desert region. A severe drought in 1862 had burned the country beyond the Nueces so that teams could find no substance. Not infrequently wagon trains were marooned for weeks at some stream or water hole before they could move on. Teams and teamsters were hard to get for the Confederate conscription law soon forced all able-bodied men into the army. Then, too, the state purchasing agents had to compete with cotton speculators who offered better prices, and for a long time the state was in competition with the Confederate government, which was seeking to operate a cotton business along the same lines. The cost as well as the difficulties of transportation steadily increased.

The first military board which functioned from 1862 to 1864 purchased five thousand seven hundred bales of cotton for which it paid about five hundred and forty-four thousand dollars in state bonds and Confederate treasury notes.

Doctor Ramsdell says of these military boards that they were poorly organized to carry on the cotton importing business which they undertook. "That the first board often showed a child-like simplicity in conducting its business." Of the second board, he intimates that a careful search of its existing records throws considerable doubt on the integrity of its operations.

Sometimes the county governments dabbled in cotton, and in 1863 Fayette County had accumulated a supply and employed a citizen to haul thirty-two bales to Brownsville at a freight rate of twelve and one-half cents per pound. He got as far as King's ranch when he met General Bee's army in retreat. They impressed his teams and took his cotton, paying him in Confederate money, all of which the Commissioners Court allowed him to retain in payment for the freight charges.

CHAPTER LXXII

THE TRANS-MISSISSIPPI DEPARTMENT

At the outbreak of the war, the territory west of the Mississippi was divided into several departments, but early in 1863 they were consolidated into a single military district, thereafter called the Trans-Mississippi Department, and placed under the command of Gen. Kirby Smith. During the first two years of the war, Galveston and some minor ports had been captured and retaken; New Orleans and much of the coast country in Louisiana had been seized; Missouri had been overrun; and the Confederate forces in Arkansas had lost control of the Mississippi and had been driven south of the White River.

General Smith assumed command in March, 1863, fixing his headquarters at Shreveport, where he maintained them throughout the remainder of the war, and it became and remained the military capital of the Trans-Mississippi Department, which was almost, if not entirely, supreme in its sphere after the fall of Vicksburg in May, 1863.

In July, 1863, the governors of Missouri, Arkansas, Louisiana and Texas held a conference at Marshall, Texas, to consider the welfare of the Trans-Mississippi country which was now thoroughly cut off from communication with Richmond since the Federals were in full control of the Mississippi.

There were rumors that the states of this department would secede from the Confederacy. This conference was had for the purpose of enabling General Smith to form a working plan with the civil authorities of the several states. Realizing its inability to communicate with and exercise any extensive control over the countries west of the Mississippi, the Confederate government at Richmond readily bestowed upon General Smith almost plen-

ary powers. The Marshall conference, which was presided over by Governor Lubbock of Texas, discussed the various phases of the war situation and the best means of restoring the confidence of the people and checking the increasing disloyalty. Among the things it undertook to do was to authorize an understanding between the Confederacy and the authorities in Mexico. Since finances was of course the uppermost topic, it was determined that General Smith's department would embark in the overland cotton trade and would purchase or impress cotton to be carried to Mexico and sold for the purchase of supplies.

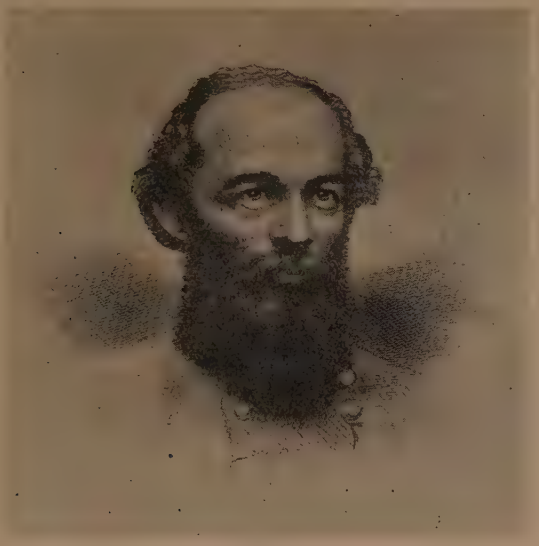
After the fall of Vicksburg, General Smith was recognized as having power to do everything in his department that the Confederate president could do. In a letter from President Davis to Governor Allen of Louisiana in April, 1864, he writes, "General Smith has power to execute the laws and that is the only authority I have." In writing to General Smith, the Confederate president advised, "As far as the constitution permits, full authority has been given you to administer to the wants of your department, civil as well as military."

He exercised these supreme functions for two years, and it is a great tribute to his ability and character that he did so with so little friction with the state authorities and so little oppression to the people at large. Although he had the power and sometimes did suspend the writ of habeas corpus, and other extraordinary prerogatives as well, there was little complaint against his ability and none against his integrity.

In carrying out his extensive operations, General Smith established a complete military administrative system, patterned after the Confederate regime at Richmond, and established bureaus and depots of supplies at various places in Arkansas, Texas and Louisiana. In carrying on the cotton trade, he encountered much difficulty because of the competition between the agents of the Confederate government and state agents, and private speculators who were also in the field bidding against him. Then, too, the great depreciation in Confederate currency

after the reverses at Gettysburg, Vicksburg and Chattanooga almost destroyed the purchasing power of their currency.

In July, 1864, General Smith opened a subtreasury at Marshall, Texas, in charge of Judge Peter W. Gray. The funds to be handled through this treasury came from two sources: the proceeds of the sale of government cotton, and such money



LIEUT.-GEN. KIRBY SMITH

[From Engraving by O'Neill, New York]

as could be smuggled through Federal lines from the Confederate treasury at Richmond.

In September, 1864, he organized a postal system for his department. Finding great difficulty in purchasing cotton for the account of the Confederate government, he was compelled to resort to impressment, and in 1863 ordered Magruder to forcibly take such cotton as could be transported and sold, issuing to the planters the obligations of the Confederate government in payment.

The Texas papers realized that General Smith's power alone could prevent anarchy, and defended him in almost all of his public acts. During these troubled years, he became the sole agent of the general government, exercising the functions of the president and those of the members of the cabinet so far as such functions were necessary for the administration and defense of his department. It was in a large measure due to his ability, patriotism and zeal that this department did not break down of its own weight long before the surrender of the Confederate armies east of the Mississippi River.

The Texas cotton office was opened in Houston, which was the chief outlet to the Mexican border, and was placed in charge of Lieut.-Col. W. J. Hutchins. This Houston office became by order of General Smith the purchasing bureau for all supplies through the medium of cotton for the district of Texas. The cotton trade was carried on many months, this cotton bureau being the only means of keeping the army in the field and relieving the immediate wants of the people.

Despite the watchfulness of the Federal blockading squadron along the coast, blockade runners carried on a constant trade between the Texas ports and Nassau, Havana and Matamoros. These vessels brought the general necessities such as munitions of war, dry goods, shoes, salt, and received pay for the cargoes in cotton.

Captain Lynch of Brownsville, Texas, reported that in two months he had forwarded from that port alone six thousand pounds of army stores. All of these goods and many others were paid for with cotton.

As practically all of Missouri and large portions of Arkansas and Louisiana were under the control of the enemy, this left only Texas intact and it comprised most that remained of the Trans-Mississippi Department.

Edmund Kirby Smith was born in Florida in 1824, graduated at West Point in 1845, and was in Taylor's army in the Mexican campaign and afterwards with Scott in the southern cam-

paign. He went to the Texas frontier as an officer in the second cavalry in 1855, which was commanded by Col. Robert E. Lee. He was located at Fort Belknap in 1861 when Texas seceded, and immediately entered the Confederate army and was severely wounded at the battle of Bull Run in July, 1861. After the war he became professor of mathematics in the University of the South at Sewanee, Tennessee, where he spent his declining years, and died in 1893.

His memory should ever be cherished in Texas for he was a worthy ruler in a troubled time.

CHAPTER LXXIII

THE LAST DAYS OF THE WAR

All the evils which General Houston had so powerfully prophesied four years before had now come to pass.

The Confederacy had fallen. Lee had surrendered, and Joseph E. Johnston, hard pressed by Sherman, was retreating with a remnant of what was once a mighty army.

The Trans-Mississippi Department, commanded by Gen. Kirby Smith, had fifty thousand men under arms, fifteen thousand of whom were in Texas, most of them at Houston and Galveston, where General Magruder held headquarters.

There were rumors that Johnston would elude Sherman and cross the Mississippi, joining his forces with those of Kirby Smith, and make a last stand for a desirable peace.

There were schemes on foot to offer this force in an alliance with Maximilian, the Austrian emperor of Mexico, who knew that the United States would be after him as soon as the South was suppressed, and in this way it was hoped to involve the Washington Government in a war with the backers of the Austrian archduke.

President Davis and his cabinet left Richmond on the night of April 2nd and on the 11th they conferred with Joseph E. Johnston and Davis was told that Sherman had sent word that he could leave the country, offering to facilitate his escape to Cuba. But he declined to accept any favor from the Federal Government and the fugitives pressed on, hoping to cross the Mississippi and join Kirby Smith before he surrendered.

As they hurried along through the Carolinas and Northern Georgia, the members of the cabinet one by one took leave, going in different directions. The attorney general left them at Char-

lotte to go for his orphan children at Wilmington, and Mallory, and Wigfall, who was with them, procured some blank paroles from a soldier who had surrendered with Lee, and filling them with fictitious names, got through the Federal lines. Threnholm, the secretary of the treasury, dropped out at Charlotte and turned over the remnant of his war chest, which contained eighty thousand in specie and eight hundred thousand in treasury notes, to Judge Reagan. The next day Judah P. Benjamin left them with a declaration that he was going to the middle of China if he could get there, and he made his way to London. A large part of the silver was divided among the escort of soldiers who were with them, and the gold was delivered to a navy officer who hoped to be able to ship it abroad to some fiscal agent of the Confederacy. When he reached Washington, Georgia, Judge Reagan had the boxes of treasury notes brought to his room in the hotel and ordered a fire in an open grate and alone in the night he burned the last of the Confederate money, winding up the fiscal affairs of the fallen government. Three days later Federal cavalry overtook them, and Davis, Reagan and Governor Lubbock were among the captives. Lincoln had been assassinated since they left Richmond and a reward of one hundred thousand dollars had been offered for the capture of President Davis.

There was much fine talk that the country west of the Mississippi would stand firm, but for the most part this came from the stay at home element that had escaped military duty and under the guise of protecting the home folks had held a high hand in Texas while better and braver men had fought the war. This belligerent attitude had no support among the soldiers in the Trans-Mississippi Department, who were ready to lay down arms, realizing that all hope for further resistance was idle.

On the 13th day of May, Gen. Kirby Smith assembled a conference of the governors of the states in his department which met at Marshall.

THE CONQUERED BANNER

"Furl that banner, for 'tis weary
And its people's hopes are dead."

The chief executives of Missouri, Arkansas, Louisiana and Texas joined in an offer to surrender upon more favorable terms than had been accorded General Lee. They proposed that the Federal Government leave these state governments intact until conventions could be called to work out the problems incident to the proper relations of the seceded states with the Union.

These overtures were promptly sent to General Pope at New Orleans, and promptly declined by him, with the statement that he had no power to discuss or agree upon the political status of any of the conquered states.

Failing in this move, General Smith now sent General Buckner to New Orleans to open negotiations for surrender, and on May 26th a convention was agreed upon, by the terms of which all soldiers were to be paroled and go home. But before this had been done, the army in Texas had disbanded and gone home of its own accord.

Awaiting the outcome of Buckner's mission, General Smith had ordered Magruder to evacuate Galveston and concentrate his forces at Houston, and when the order was given the soldiers scrambled out in mob formation and swarmed into Houston.

The Confederate government had assembled large quantities of supplies in depots at and near Houston, and the soldiers deemed themselves entitled to these goods which would soon fall into the Yankees' hands, and all stores and warehouses where they were held were stormed and sacked.

These goods and chattels were soon exhausted and the next mob, which was too late to participate in the plunder, was in an angry mood and threatened to loot and burn the town.

The mayor, aided by the citizens, fed these half-famished warriors, and bade them God-speed on their way home.

Breaking up into smaller groups, they swept on up the state and in many places there was wild disorder as the scattered fragments of the army of the late Trans-Mississippi Department passed to private life.

So before General Buckner returned from New Orleans with the terms for the surrender, there was no army left to surrender.

General Smith reached Houston on the heels of his vanishing army, and, seeing the end had come, went to Galveston where, on June 2, 1865, on board a man of war in Galveston harbor, he signed the capitulation which officially ended the military career of the Confederacy.

The wild angry utterances of President Johnson, made under the great excitement which followed the death of Lincoln, "that traitors must be hung," and the universal demand for vengeance which came from the North were taken at their face value in the South, and there was a mad rush of generals, governors and high and low officials of the fallen government towards the Mexican border. Murrah, the governor of Texas, Kirby Smith, Magruder and hundreds of others were in this exodus. General Shelby with an army of some six thousand men swept across the state fleeing from the wrath to come.

Texas was without a government, civil or military, in May and June, 1865. Brigands operated on the highways. The state treasury at Austin was looted.

Not since the Mexican invasion of 1836 had such a scene of hopeless disorder prevailed in the unhappy country. The slaves were, or in a few days would be, free, and northern papers, preachers and politicians were demanding the confiscation of the property of the rebels and its distribution among the freedmen.

The broken soldiers who had survived the battles of the long war were coming home to face fallen fortunes, and thousands of the flower of our manhood had been left on these fields while mothers, widows and orphans mourned them throughout the turbulent, desolate land.

CHAPTER LXXIV

THE YANKEES ARRIVE

On the 17th day of May, 1865, General Grant ordered Sheridan to military duty in the Fifth District, composed of Texas and Louisiana. General Sheridan relates in his memoirs that he wanted to stay in Washington for the grand review which was to take place a week later, but the exigencies of the situation were such that he hurried away to his new command, foregoing the splendid privilege of riding under review before an admiring public. At the time this commission issued to Sheridan, Kirby Smith had not surrendered, and Grant instructed:

"If Smith holds out without even an ostensible government to receive orders from or report to, he and his men are not entitled to the consideration due to an acknowledged belligerent. They are in the position of outlaws making war against the only government having an existence over the territory where the war is now being waged. You will notify the rebel commander west of the Mississippi that he will be allowed to surrender all his forces on the same terms accorded Lee and Johnston. If he accedes, proceed to garrison the Red River to Shreveport, the seaport at Galveston, Matagorda Bay, Corpus Christi and the mouth of the Rio Grande. Place a strong force on the Rio Grande as far up as Comargo."

The instructions with reference to a strong force on the Rio Grande had an international significance for there was a feeling at least in army circles in the North that since thousands of Confederates had gone across the river to join Maximilian, the armies of the North would probably be ordered into Mexico against him. In fact, the invasion of Mexico by Maximilian was generally regarded by the Washington Government as a part of

the rebellion itself, largely because of the encouragement this invasion had received from the Confederacy.

Sheridan sent two regiments overland from Red River, one to San Antonio under Merritt, the other to Houston under General Custer, and a detachment of eighteen hundred troops was sent from New Orleans to Galveston under General Gordon Granger. Sheridan's greatest interest in this enterprise seems to have been the possible operations in Mexico, and he did everything he could to create the impression that his command would soon be marching to the relief of Juarez, who at that time was hard pressed by the imperial forces. He made a threatening gesture toward invasion by sending confidential agents into Mexico to gain information about the movement of the imperial forces, and to gather intelligence about the ex-Confederates who had crossed the Rio Grande.

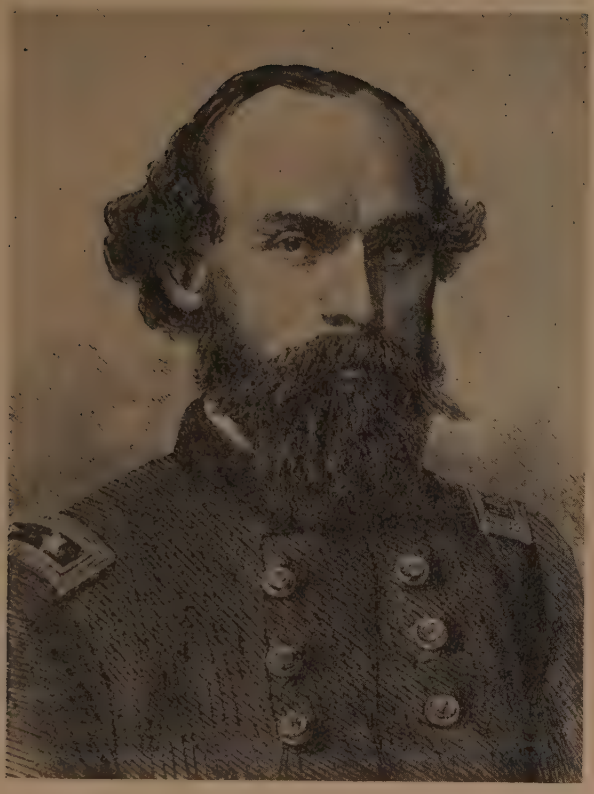
In his memoirs, he says,

"I caused General Steele to make demonstrations all along the Rio Grande and demand the return of certain munitions of war that had been turned over by the Confederate forces to the Imperial General Mexia commanding at Matamoros."

"These demands backed up as they were by such a show of force created much disturbance among the imperial forces, who began talking of abandonment of Northern Mexico, and would have resulted in the speedy evacuation of the entire country by Maximilian had not our Government weakened."

He devotes many pages of his memoirs in relating how his war-like demonstrations along the border frightened Maximilian and encouraged the forces of Juarez to bring about the ultimate overthrow of the empire.

On the 19th of June Gen. Gordon Granger landed 1,800 troops in Galveston, and on the same day published an emancipation proclamation freeing all slaves, and this day is still celebrated by our colored population.



GEN. GORDON GRANGER

[General Granger, born in New York in 1821, died in Santa Fe, New Mexico, January 10, 1876, was graduated at the United States Military Academy in 1845; took part in the principal battles of the Mexican war. When the Civil war began he served on the staff of General McClellan in Ohio; then in Missouri; was brevetted major for gallant services at Wilson's Creek; and on September 2, 1861, became colonel of the Second Michigan Cavalry; on March 26, 1862, he was made a brigadier-general, and commanded the cavalry in the operations that led to the fall of Corinth. He became a major-general of volunteers on September 17, 1862. He distinguished himself in the battles of Chickamauga and Missionary Ridge. On January 15, 1866, he was mustered out of the volunteer service.]

Two days before President Johnson had named Andrew Jackson Hamilton provisional governor of Texas, but he did not arrive until a month later.

The newly arrived military authorities first sought the property and supplies of the late Confederate government, but these had all been appropriated by the disbanded soldiers, and they turned attention to a statewide search for cotton. The only outlet for cotton during the last years of the war had been through Mexico, and there was quite a quantity of it which had not been gotten out of the country. Some of this cotton belonged to the Confederate government, some of it belonged to the state which had embarked in the cotton export business through Mexico, and much of it belonged to individuals.

A horde of agents of the United States treasury swarmed over the state seizing this cotton, and they took it all. For the most part, they were petty thieves and their rascally transactions were of a shameless character, and when caught stealing they could count on the support of the nearest military officer with whom they always seemed to have a working arrangement. Small detachments of soldiers were stationed all over the state, but principally in those sections where there was a large negro population and where disorders between the races were imminent.

CHAPTER LXXV

RECONSTRUCTION

It has often been said that had Lincoln lived, the South would have been spared the terrors of reconstruction. This idea is founded not only upon the general confidence in the justice of Lincoln, but in the fact that he had to some extent formulated a policy for those states that had been overrun by the Federal armies and where loyal governments had been set up. On December 8, 1863, in his third annual message, Lincoln issued a proclamation offering amnesty to all, with a few exceptions, who should take an oath of loyalty, and declaring that whenever in any of the seceding states persons to the number of not less than one-tenth of the votes cast in such states in the presidential election of 1860, having first taken and abided by the prescribed oath, should reestablish a state government and recognize the permanent freedom of the slaves; it should be recognized as the true government of the state. This plan he explained and defended at length in the message, and under it provisional governments were soon organized in Louisiana and Arkansas, and application was made for the admission of their senators and representatives to Congress.

The President's action in this respect did not receive Congressional sanction, and was not endorsed by a majority of his supporters in the capital. Many held that the subject was one which was wholly within control of the legislative branch of the Government, and that his proclamation was itself an unwarranted assumption of authority. Congress, therefore, refused to recognize the Louisiana-Arkansas governments, and on the last day of its session passed a reconstruction act differing

radically in terms from Lincoln's plan. Its bill provided that a provisional governor should be appointed with the approval of the Senate, and that an enrollment of white, male citizens should be made when armed resistance ceased in any state, and that when a majority of the citizens so enrolled took the oath of allegiance, then the loyal people should be entitled to elect delegates to a convention to establish a state government. Upon the adoption of an anti-slavery constitution by such convention it was to be certified to the President who, with the assent of Congress, was to recognize the government thus established as the lawful state government.

This measure President Lincoln defeated by withholding his signature, and on July 8, 1864, he issued a second proclamation upon the subject, stating that he was unwilling to approve any reconstruction act which would set aside the quasi governments of Louisiana and Arkansas, nor prepared to admit the constitutional competency of Congress to abolish slavery in the states.

The issue was then squarely on as early as 1864 between the President and Congress as to whether the details of reconstruction were executive or legislative, and Senator Wade of Ohio and Representative Henry Winter Davis of Maryland issued an address declaring that, "*We have read without surprise but not without indignation the proclamation of the President's views.*" They declared that *a more studied outrage on the legislative authority and on the people had never been perpetrated, etc.*

Lincoln had great difficulty in his own party in the campaign of 1864, and only the exigencies of war kept the factions together to secure his election.

The surrender of Lee at Appomattox in April, 1865, filled the North with noisy exultation, and everywhere the feeling was rife that the hour of retribution was at hand. Before there had been time to discuss any of the issues arising out of reconstruction policies, the President was assassinated on the 14th of April. A writer has described the event thus:

"From the heights of rejoicing, the land was suddenly hurled to the depth of despair in piteous, helpless grief. A pall of horror spread its shadows over all. Nothing short of an earthquate or the sound of the Archangel's trumpet could have produced the sense of helpless consternation, the black and ceaseless despair. From every place in the North came deep muttered curses."

On Easter Sunday the churches had been decorated to celebrate a nation's triumph but instead they were filled with mourners who came to express a nation's grief.

Beecher, the great Brooklyn preacher, declared:

"Never while time lasts, while Heaven lasts, while hell rocks and groans, will it be forgotten that slavery by its minions slew him, and slaying him made manifest its whole nature. A man cannot be bred in its tainted air. We shall find saints in hell sooner than true manhood under its accursed influences. The breeding ground of such monsters must be utterly and forever destroyed."

Similar utterances came from thousands of churches, and when sentiments like these came from the pulpit, more vicious, if possible, would be expected from less dignified assemblies and from the newspapers.

Lincoln's body passed to its burial place under arches bearing inscriptions:

"A nation bowed in grief will rise in might to exterminate the leaders of this cursed rebellion."

In the anger and anguish of the hour, the universal fiat went forth for eternal vengeance against the people of the South.

Andrew Johnson had suffered great wrongs at the hands of the Confederates in his home state of Tennessee, and had narrowly escaped with his life for the espousal of his Union principles. He, therefore, held in common with the North a sufficient cause for bitterness and vengeance. Swayed by the terrible clamor of the hour, his first utterances were ugly and

extreme. The leaders of the rebellion should be punished. Traitors should be hanged. And he at one time issued a wholesale order for the arrest of Southern leaders, including General Lee.

On the 2nd of May he issued a proclamation reciting that:

"It appears from evidence in the Bureau of Military Justice that the atrocious murder of the late President and attempted assassination of the Secretary of State were incited and procured by and between Jefferson Davis, Jacob Thompson, Clement C. Clay, Beverly Tucker" (and others named), "rebels and traitors against the Government of the United States."

He accordingly offered large rewards for the arrest of these outlaws, heading the list with $100,000 for the apprehension of Jefferson Davis.

This was the forbidding atmosphere into which the conquered states came for judgment at the hands of the conquerors.

But when President Johnson shook off the frenzy following the tragedy of Lincoln's assassination, and saw the situation of the South as he knew it, though he no doubt still held his extreme feelings against the Southern leaders, he did not manifest them against the Southern people and dedicated his entire presidential term in a strong but fruitless effort to save the South from the wrath of the Northern radicals.

Congress was not in session at the time he took the oath of office, and no doubt feeling that he would have violent opposition from congressional leaders, he refused to call a special session, and until the following December, when the regular term of the next Congress would convene, he tried to formulate a plan which was ridiculed as "My policy." On the 29th of May he issued the celebrated amnesty proclamation, referring to the clemency that had been proffered by Lincoln in December, 1863, and March, 1864, and declaring a pardon to all persons participating in the late rebellion who would take and subscribe to an oath of amnesty, except fourteen prescribed classes which are specified in the proclamation. The oath of amnesty simply

required the citizens to declare that he would defend the Constitution of the United States, and faithfully abide by and support the laws with respect to the emancipation of slaves. The prescribed classes included all persons who had held office, state or Federal, prior to the war or during the war and afterwards entered the Confederate service, and all persons who had voluntarily participated in the rebellion having taxable property of estimated value of $20,000.

ANDREW JOHNSON

On the same day that Johnson issued his amnesty proclamation (May 29th) he issued a decree appointing a provisional governor for North Carolina, who was directed, at the earliest practicable period, to convene a convention to be chosen by that portion of the people loyal to the Union, for the purpose of altering the constitution and the exercise of all powers necessary to enable the loyal people of the state to restore constitutional relations with the Federal Government. All persons who had been loyal to the Union during the war and all others who could take the easy oath of amnesty were eligible to vote for or sit as

delegates in this convention. In rapid succession he issued similar proclamations for the several Southern states during the month of June, that for Texas on the 17th, and naming Andrew J. Hamilton provisional governor. Pending the organization of the new government, the military commander of the department was directed to "aid and assist" the provisional governor in carrying on, but was not in express terms given authority over the civil administration.

Amidst these awful scenes of chaos and confusion, Jack Hamilton landed in Galveston in the latter days of July, bearing a commission from the President as provisional governor of Texas.

CHAPTER LXXVI

THE PROVISIONAL GOVERNMENT

Hamilton's homecoming was feared by his former fellow citizens, who knew he had many grievances and wrongs to avenge if he were prone to retaliate. He had been forced to flee from his home during the war to escape the heavy hand of the home guard, which had harassed and hanged Union men and confiscated the property of those who fled.

But he had no plans for vengeance, and with the breadth of a statesman set himself to the impossible task of restoring the fallen civil government.

But Houston had been powerless to avert disaster in 1861 and Hamilton was powerless to coordinate the discordant elements which made up the citizenship in 1865.

There was the "unreconstructable Rebel" who would not admit defeat and would have been hostile to any plan for reorganization no matter how benign. There was the radical, sometimes a Unionist and sometimes a renegade secessionist, who for vengeance or spoil desired to build up a political machine by disfranchising enough of the "Rebels" and enfranchising all the negroes, whose votes he would control to put him in power.

There was the military, often officered by men willing to take profit out of this sad situation, which from the first assumed supervision, and the commandant soon became a despot.

The two most serious impediments to his progress were the relation of the races and the wild lawlessness that prevailed everywhere in the absence of any governmental restraint. Many counties were without peace officers since the collapse of the Trans-Mississippi Department in May. On the frontier the people suffered from both outlaws and Indians.

All through the summer of 1865 the soldiers at Galveston, where the departmental headquarters were maintained, ran wild and were guilty of open robbery and constant insults to women which went unpunished. Negro soldiers were stationed at Victoria and in Jackson County, and they carried on a reign of terror.

These things feebly illustrate the conditions which hampered Hamilton in his efforts to set up a state government during the year of his incumbency.

He named Judge James H. Bell secretary of state and had the assistance of that able and upright man who had been a member of the Supreme Court before the war. Judge Bell was a native Texan, son of one of Austin's old three hundred, and was born at Columbia in the colonial days. He had been a Unionist but his high character and the general esteem which he enjoyed was retained during the war.

As rapidly as possible the new governor named peace officers over the state, and hastened the procedure for an election and for the convention to be held under the President's proclamation.

Within a month after his appointment he issued a proclamation for the registration of voters for such an election, and a simple oath of amnesty by which the voter would pledge himself to "henceforth support the constitution and laws of the United States" was all that was required under the presidential proclamation.

Persons coming within the excepted classes could procure a special pardon from the President removing disabilities, and these pardons were freely given by President Johnson.

Governor Hamilton, though a Union man, was a Southerner born and bred. When run out of Texas in 1862, he had gone out through Mexico and found his way to Washington, where he tendered his services to President Lincoln and was appointed a brigadier-general, with the idea that he would be able to raise troops in Texas among the Union sympathizers to support the Federal cause. When General Banks planned his invasion of

Texas in 1863, Hamilton accompanied him, and if the Union forces had succeeded in overrunning the state, he would have then been appointed provisional governor. Banks landed a force at the mouth of the Rio Grande, and for a time in 1863 and 1864 Federal troops held the lower valley, and Hamilton was on this border, hoping for an opportunity to lead an invasion into the state.

In January, 1863, General Banks wrote Stanton, secretary of war, with reference to Hamilton:

"My intercourse with him has been pleasant. He is not a bad man, but lacks decision and force of character. I have treated him with profound respect up to the line of my duty. I did not proclaim to him or those associated with him my destination. They ascertained that for the first time when we were in New Orleans. His impatience and the violence of those about him led me sooner to send a detachment to Galveston than I otherwise would have done. General Hamilton is surrounded by men who are here for the basest mercenary purposes. Disappointed in their objective, they have been unsparing in their denunciation of the government and especially myself. They came on board without my knowledge and against my orders, and, as General Hamilton has said to me, have influence over him in consequence of pecuniary advances made to him while in the North. The strongest government in the world would break down under such a system of plunder as they desire to organize. If the whole state were for the Union, it would turn against the government if the purposes of such men were tolerated."

But Hamilton's conduct as governor and during the reconstruction days were above reproach, and marks him as one of the truly great men of Texas.

He was born in Madison County, Alabama, in 1815, and was admitted to the bar of that state in 1841. He came to Texas in 1846 and located at LaGrange, and three years later was appointed attorney general of Texas by Governor Bell, and

from that time made his permanent residence at Austin. He served as representative in the Legislature in 1851 and 1853. In 1856 he was an elector on the Buchanan ticket, and in 1859 he was elected to Congress as an independent over Gen. T. N. Waul, the Democratic nominee. He was in Congress when Texas seceded and refused to withdraw with his colleagues. He died at his home in Austin in April, 1875.

The President's proclamation had directed the election of delegates for a convention to make certain changes in the constitution as soon as possible. Governor Hamilton and his advisors were of the opinion, however, that the state was not yet in proper condition for the calling of this convention. It seemed that the people had not yet accepted the real situation. A belief was yet more or less prevalent that compensation might be secured for the loss of the slaves, and thousands of persons hesitated to take the amnesty oath tendered in President Johnson's proclamation lest it should in some way estop claims for this compensation; that the slaves could be freed without paying for them was yet unbelievable as late as midsummer, 1865.

Governor Hamilton issued an address warning the people that slavery was dead, and could not be revived in any form, and that compulsory labor laws would be regarded by the people of the North as a mere subterfuge and would not be tolerated; that the negro was to remain free, and must be given equal rights with the white man and should have his testimony admitted in the courts. He warned the people that without some such action it would be useless to expect that senators and representatives from Texas would be allowed to take their seats in Congress.

People had become so weary of disorder and lawlessness that for the most part they hoped Hamilton would succeed in establishing order, and public meetings were held throughout the state, without regard to political affiliation, where resolutions were passed tendering the new governor the support of the citizens in the restoration of law and order.

The interim between the flight of Gen. Kirby Smith and Governor Murrah and the coming of Hamilton three months later had been filled with lawlessness, and from one end of the state to the other there were pillage, robbery, murder and every form of outlawry. Sometimes these crimes were committed against Union sympathizers and often against the negroes who were now wandering away from the plantations, but just as often they were committed against Southern sympathizers, for the criminal element seemed impartial in its depredations. In many counties the outlaws were so numerous and so well organized they could defy arrest, and in others so few of the citizens had taken the amnesty oath that the courts could not procure jurors. The situation was so helpless in many counties that people appealed to the governor to have Federal troops sent for their protection, for they had come to regard the Yankee soldiers as more tolerable than their own brigands. There was a lingering sentiment of animosity among the unconquered element that was unwilling to recognize Federal authority which manifested itself in many ways.

It was reported that a crowd destroyed the United States flag that had been hoisted over the courthouse at Weatherford, and that a mob at Bonham had desecrated a flag. The "unreconstructable rebel," as he called himself, was in evidence then and for many years to follow.

President Johnson's order appointing Hamilton had advised that the military would "aid and assist" him, and since their respective duties were not defined much confusion necessarily arose.

The registration of voters was completed on the 15th of November and the governor issued a proclamation fixing the date of the election for January 8, 1866, the constitutional convention to meet at Austin on the 7th of the following February.

CHAPTER LXXVII

STATUS OF THE NEGRO

As slavery was the issue which had brought on the war, so the future status of the freed slave was the sable overshadowing theme of reconstruction. Should he become a citizen? Should he be allowed to vote? Should he be permitted to testify in the courts?

When General Granger's proclamation was issued from Galveston on June 19, 1865, the people of Texas might well have recalled General Houston's prophesy to Reagan four years before that the first gun of the war would be the death knell of slavery.

The colonists who came into Texas forty years before had brought their slaves and held them during the fifteen years of Mexican supremacy. Though the laws of Mexico forbade slavery, yet the planters were able in one way and another to evade these restrictions.

Mexico took the high moral tone of the times and abolished or forbade human slavery, but had a system of peonage that was probably worse. At one time during the '50s there had been a reciprocal agreement between officials on both side of the Rio Grande, that Mexican authorities would return runaway slaves to the Texans, and they in turn would return fugitive peons to their lords in Mexico.

During the war while the masters were away fighting to keep them in bondage, the negroes had worked the plantations and faithfully served and protected defenseless families with a devotion which has been the theme of song and story for more than half a century. Many a master rode away leaving his wife

and children at the mercy of his slaves, without any misgivings as to their safety. This same master was often accompanied by his favorite body servant, who followed him through the varying scenes of many battles, succored him when wounded, wept over him when he died, and came home with his farewell message to "Missus and the children."

Speaking of this fidelity, Gen. John B. Gordon said in 1871:

"When the entire male white population was at war and large plantations were left to be managed by the women and children, not a single life was taken, not a single insurrection occurred; and that too at a time when the Federal armies were marching through the country with freedom for the negroes written on their banners."

The news that they were free witnessed interesting, often pathetic and everywhere tragic, scenes.

On the Alsworth plantation down in Brazoria County the master called his negroes together under the great live oak trees that he and they had planted about the big house and told them they were free and could go where they would, but urged them to stay with him. They went into the woods nearby and unearthed a jar of gold coins which they had hoarded and hidden in the bygone years, and offered to divide it with Mr. Alsworth. Most of them remained on the place, and when he lost it by foreclosure two years later, as most plantations went, they stayed on and on through many changes in ownership, and when oil was found on the old Alsworth place and the land was in litigation sixty years later, we found children and grandchildren of these slaves living on and nearby the old plantation.

When left alone by agitators, the negroes for the most part were law abiding and industrious. General Gordon, testfying before a congressional committee in 1871, said:

"The negroes have behaved so well in Georgia that the remark is not uncommon that no race on earth suddenly relieved from servitude would have done so well."

Convention of Freedmen Discussing Their Political Rights

It is difficult to translate the stubborn belief of the Texas planters of the early '60s not only in the divine justice of slavery but in the security of the institution.

As late as 1863 Alsworth mortgaged his lands for money with which to buy more negroes, and it was the foreclosure of this mortgage which left him homeless after the war.

A leading lawyer and planter of Brazoria at the beginning of the war, when about to leave for the front, wrote his will, and counseled his executors in case of his death to convert his lands and other valuables into money and make a safe investment for his family, and for this safe investment he suggested the purchase of slaves. Having sealed the testament with these instructions, he rode away to die at Shiloh.

In 1860 the assessed value of slaves in Texas was $64,000,000, about one-fourth the total value of property assessed.

There had been many thousands of negroes brought into Texas during the war from other states which had been overrun by the Union armies, and in the southern and eastern counties they often outnumbered the whites ten to one. While thousands of them stayed on the plantations, yet many more tried their new freedom and the towns were soon filled with hordes of them, penniless and unwilling to work.

The idea had been circulated that the men who had freed them would feed them, and the very definite conviction prevailed among them that next Christmas was to be an occasion when the liberators would divide up all the property of the country with them, and each darkey was to have a full share.

As autumn, 1865, approached, thousands of farms were without labor, and the harvest could not be gathered, and when importuned to work the negro deferred the matter until Christmas, when he was sure of being cared for.

General Granger in his "Juneteenth" proclamation had advised that though they were now free and had full equality with their former masters in personal and property rights, yet they should stay on the farms and work for wages.

Until the coming of the Freedman's Bureau some months later, most of the military men in high authority were mindful of their responsibilities and tried to keep the negroes at work.

The efforts of the farmers to keep and control this newly freed labor met many difficulties. They would make contracts with the laborer, but he would not fill his agreement, and when he sought to go elsewhere the old time plan of making him do met with loud protest, and instances of this kind were magnified in the Northern papers.

There were often combinations among the planters to control and regulate the negroes, an arrangement which seemed necessary, but this caused a great spasm up North.

Sometimes the people became desperate and there were numerous instances of whipping and killing darkies, which were duly reported and duly magnified in the Northern papers.

The supreme test of the fitness of the Southern people for citizenship, if they were ever to be fit, from the Northern viewpoint, was to be found in the way the negroes were treated, and to protect them during this period the Freedman's Bureau, designed by Congress as early as March, 1865, was put in working order here in December. For the most part those at the head of this work were helpful in making the negroes know that they were not going to be made opulent next Christmas but must go to work. But thousands of them waited patiently for the Christmastide, and only after it passed and left them hungry could they be gotten into the fields.

Under the statutes of Texas, passed before the war, a negro could not testify in any court proceeding, and he was now a freedman but without the right to testify or vote, and it devolved upon the new government about to be formed in the 1866 convention to deal with these problems.

When the Freedman's Bureau arrived in December, General Gregory did his best to put and keep labor on the farms for the next crop year, but his notions of the social status of the negro made it difficult to control the freedman and worked a very bad

understanding with the farmers. The work of the bureau was relief, educational, labor supervision and judicial protection for the freedmen.

A system of courts was put in operation to try cases where negroes were concerned. This meant a triple system of military courts, bureau courts, and the civil courts operating under the provisional government, all in an effort to administer the state laws. But what were the state laws? How far must the court recognize the statutes passed by the several Legislatures during the war? Were they valid and, if not, as loudly claimed by those who had opposed secession, what was the law of the land? These things multiplied the confusion and disorder which prevailed everywhere.

CHAPTER LXXVIII

THE CONSTITUTIONAL CONVENTION OF 1866

Under appropriate orders from Governor Hamilton, following the requirements of the President's proclamation, elections were held in November and delegates chosen to a constitutional convention which met at Austin on February 7, 1866. There was a strange array of faces as the delegates took their seats.

There were conservative Unionists like John Hancock and Xenaphon B. Saunders.

There were conservative secession leaders like Throckmorton, who had been against disunion four years before, but who had cast their fortunes with the Confederacy.

There were radicals like Edmund J. Davis, who wanted to put an iron hand and heel on the neck of the rebel population.

There were the extreme secessionists such as Oram M. Roberts and John Ireland. Though Roberts, ex-Governor Runnels, John Ireland and other pre-war leaders were in evidence, yet the angry visage and bitter tongue of Wigfall were not seen or heard. He had taken refuge in England to escape the wrath of Johnson's proclamations.

The easy oath of amnesty which the President had prescribed made it possible for the great majority of the people to vote in the election, and insured the supremacy of the old regime which had ruled before and during the war.

Those who had held office under the Confederacy were required to have a special pardon from the President before a restoration to citizenship, and a number of the leading delegates who came within this class had not procured this dispensation.

The appearance of those "unpardoned Rebels" provoked the ire of the "loyal men" who had suffered for their opinions dur-

ing the war and who foresaw that the political power and all the offices would soon be in the hands of their ancient enemies.

Governor Hamilton was bitter in his denunciation of what he termed the audacity of these unpardoned late leaders of secession in presuming to sit in council along with the faithful.

General Throckmorton, who had boldly voted with six others against secession in January, 1861, was chosen to preside over this convention in February, 1865. This pleased neither the extreme Unionists nor the extreme secessionists, but showed the conservative sentiment of the convention, which made a bona fide effort towards the establishment of a stable civil government.

In October, 1865, a letter had been published from Judge Reagan, written from a Federal prison, which urged the people of Texas to accept the inevitable and recognize that the will of the conqueror must prevail. He pointed out that nothing short of suffrage and full civil rights for the negro would satisfy the North, which must be placated before Texas could be restored to statehood, and he suggested that the negro be given the right to vote with an educational restriction, and allowed to testify in the courts without restriction. This would have made the way for a qualified negro suffrage, and would have left the great body of the colored people without the vote, and might have mitigated the wrath in the North, which resulted from the flat refusal to entertain the idea that the negro could vote under any circumstances.

Reagan's ideas found no favor with the public, who hooted at him, as they had at Houston four years before, and he went to his farm at Palestine and went to work.

In the early hours of the convention, I. A. Paschal proposed that the delegates subscribe to the oath to support the Constitution of the United States, but the secession majority which had just named Throckmorton to preside voted this down.

Overnight they reflected that they had gone too far, and that when their proceedings were presented to the American Con-

gress their loyalty might well be questioned when it was shown they had refused to subscribe to this oath, and the same majority which had refused the oath on yesterday reconsidered and quietly took it on the morrow.

The great questons which came before the convention were:

(1) A repudiation of the right of secession.

(2) A repudiation of that part of the war debt of the state incurred in aid of the rebellion.

(3) The status of the negro.

The radical Unionists wanted a sackcloth and ashes declaration that the right of secession never had existed and penitent admission that the course taken during the war had been treason.

The majority would do more than repeal the secession ordinance, leaving in force the acts and doings of the state government during the war.

On the question of repudiation of the war debt, there was less difficulty. The presidential proclamation had only required the conquered states to deny the validity of that part of their debts incurred in and of the rebellion, but the convention easily repudiated the entire debt of the state government that had accumulated during the war. It was urged that this debt had been piled up by stay at home politicians and for the benefit of corrupt speculators, and should not be paid by the people who had fought the war and endured its hardships. When an individual or a government starts out to repudiate an obligation, an excuse can always be fabricated.

The awful issue was the negro.

Governor Hamilton urged that nothing short of full citizenship for him would be acceptable to the powers who must pass on the doings of the convention, and Judge Reagan had warned that the North would never admit Texas to a restoration of statehood without this. And though the consequences of a refusal were well known to the majority which controlled the convention, they could not bring themselves to this supreme

sacrifice, and declined to provide for any form of negro suffrage and only partially removed his disability to testify in the courts, limiting this to those cases involving the rights of, or any injury to a freedman.

That such a course was foolhardy and would lead to grief must have been apparent to those who stubbornly adhered to it. The Thirty-ninth Congress had been in session since December, and the fight on Johnson's easy reconstruction program was under way. No sane man could hope in the spring of 1866 that the constitutional amendments adopted at the Austin convention would be accepted by the angry Congress, led by such men as Wade, Chandler and Sumner in the Senate, and Davis and Stevens in the House.

But the "old guard" who had brought on the war would not yet surrender to negro citizenship and negro suffrage, although they must have well known that on a near day they would be made to do so.

The convention took the constitution of 1845, which had been adopted when Texas came into the Union, and made various amendments to it. They were careful to provide that only white persons were eligible for office, and one can not read the amendments and find any trace of the war. In addition to these amendments, twenty-nine ordinances were passed and the repeal of the secession legislation and repudiation of the state debt were written in these ordinances. They seemed to think that there was less humiliation in doing this by separate decrees than if they had written these renunciations in the body of the constitution.

In Ordinance No. 11 they expressly ratified all that had been done by the Legislatures and by the courts during the war where these acts were not in violation of the Constitution of the United States. This brought on a terrible row in the convention, for the Union men wanted these things nullified, and their defeat was a signal for the opposition to the government set up under the work of this convention. This ordinance aroused the ire

TAKING THE OATH OF ALLEGIANCE

of Governor Hamilton, who came before the convention on March 31st, the day after its passage, and declared:

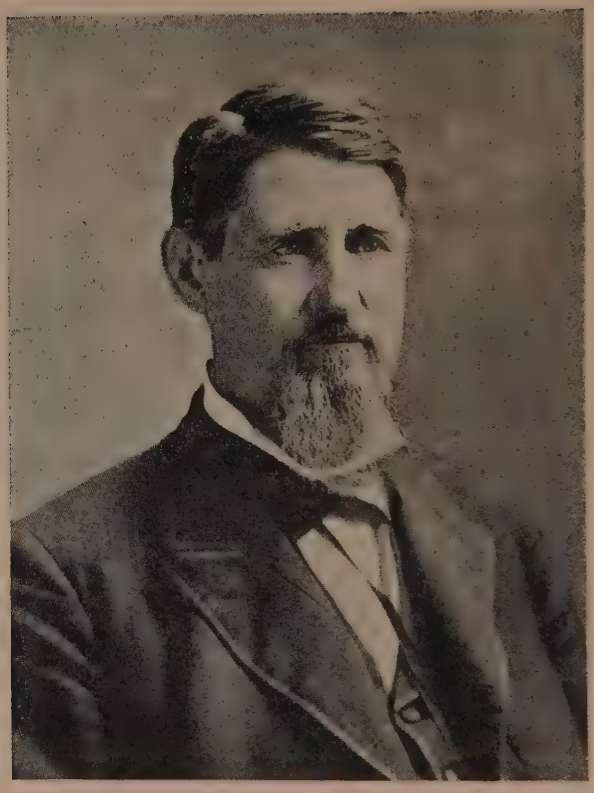
"You have approved wholesale murder and robbery. A measure of peace you say, but does it bring peace to bereaved hearts made desolate by such deeds. I think the friends of this resolution had in mind certain persons who were receivers under the laws of the Confederate States. Loyal citizens were robbed, and now because these receivers acted under authority they must be protected. But they will be called to account. There is but one cure. They must leave the country or account. Just as sure as the sun is shining in the heaven above us, you have to settle with the people and shall answer to them, and if God spares my life I will go before them and make these men answer."

The men who dominated this convention were bold and defied consequences. They drove Hamilton and Pease and the worthy Union men into the radical camp.

Both these men hastened to Washington to oppose the admission of Texas under this constitution, and once there they joined the congressional faction in its war on the President, which they deemed the only way to prevent the recognition of the government set up under Johnson's proclamation by the convention of 1866.

Before the convention adjourned, the factions prepared for the state elections which were to follow in August, the democrats naming General Throckmorton for governor, and Wash Jones for lieutenant governor, and the opposition put up Ex-Governor Pease and B. H. Epperson for these places.

Throckmorton was chosen by a vote of 49,000 over Pease, who polled 12,000, and the acts of the convention were ratified by a small majority of less than 3,000. There was little wisdom and no statesmanship in the constitutional convention of 1866. Houston was gone, Reagan was in retirement, and the dominant men who sat in the convention seem to have devoted more time in jockeying for official place than in intelligent efforts to avert the real and awful events which loomed just ahead.



JAMES W. THROCKMORTON

CHAPTER LXXIX

THE THROCKMORTON GOVERNMENT

On August 20, 1866, the President issued a happy proclamation that the insurrection in Texas was at an end and that peace, order and tranquility prevailed, and gave orders to the military to render support to the new state government. Anticipating this proclamation, Throckmorton had been inaugurated two weeks before, and the Eleventh Legislature had met at Austin.

The new governor was well aware of the troubles that awaited him, and his inaugural address, though full of courage, is replete with warnings and sounds like a chapter in the book of doom.

If the late convention had acted unwisely in disdaining Judge Reagan's advice and driving Hamilton and Pease into opposition to the new government, the Eleventh Legislature did a far more foolish thing in the election of United States senators.

O. M. Roberts, who had been one of the first to sound the bugle for secession in 1861 and who had presided over that convention, was chosen as one of the first senators to seek a seat in a body full of radical and hostile men who were clamoring for dire punishment for an unrepentant South.

The venerable David G. Burnet, who had been provisional president of the Republic of Texas thirty years before, was chosen as his associate.

Neither of them could subscribe to the oath required for members of Congress from the seceded states.

A war was raging between the President and radical leaders in and out of Congress who wanted to keep the South under a military despotism until the negro could be enfranchised and elections held throughout the South, where Republican politi-

cians, backed by a negro vote, could seize and hold the state governments.

The military, led by Grant and dominated by foes of the President, did all in its power to weaken and discredit the new governments in the South and bring on a state of affairs which would lead to their overthrow and to make way for the new regime of Republican leaders backed by negro voters.

In the meantime everything went wrong.

There was a state of lawlessness on the northern frontier where the people were pillaged alike by Indians and outlaws.

Murders were committed everywhere and the peace officers were powerless and the juries afraid or unwilling to bring the perpetrators to justice.

There were only a few sections of the state where soldiers were stationed, and instead of helping law and order they made matters worse.

In September drunken soldiers at Brenham started a riot and burned the town, and though the perpetrators were known and were indicted by a grand jury, the commandant at Galveston protected them and they were not punished.

In August a negro was indicted for assaulting a white woman in Bosque County, and a military attache from an adjoining county took him from the local officers and discharged him without a trial.

Two companies of negro soldiers were stationed at Victoria and were allowed to terrorize the town, and they would not allow the peace officers to arrest a negro or Union man for any offense.

These are a few of the hundreds of instances which could be found in the records of this awful year.

Hampered by the military, the peace officers, often incompetent, were powerless, and when Governor Throckmorton appealed to the military for aid he was either insulted or ignored.

Many crimes were committed against negroes and Union men, for which there was little or no redress in the courts, and

Gen. Philip H. Sheridan

this led to the cry that the rebels yet in power were killing loyal men and going unpunished.

All the while the war between the President and Congress grew louder.

The Republican leaders saw party disaster if the representatives from the Southern states were admitted to Congress. All of these states had quickly set up governments dominated by their own people, as Texas had done, and since the negro was now free and would be counted in the census, upon which members of Congress were apportioned, the Democratic South would have a larger delegation and be a menace to Republican supremacy.

The Fourteenth Amendment was now born and was so worded that no state could disfranchise the negro without losing representation to the extent that he was disfranchised, but which left ample power to disfranchise all persons who had participated in rebellion, and yet keep full representation in Congress.

In March, 1867, Congress passed, over the President's veto, the first of the radical reconstruction acts, which declared that no legal state governments existed in any of the Southern states which had lately organized under the President's plan.

The act provided for a division of the entire South into five military districts, and for a military dictator in each with powers over the local governments.

Texas and Louisiana were the Fifth District and were for the time being put in command of General Sheridan.

All local governments which had been formed under President Johnson's reconstruction policy were declared provisional only, to be abolished at the will of the military authorities, and a plan was provided by which in due time new elections would be held for conventions to formulate constitutions, in which elections the negro should vote.

Shorn of all power and harassed by the military authorities, Governor Throckmorton was allowed to remain in nominal

authority until July, 1867, when Sheridan removed him as an "impediment to reconstruction."

Graphically recounting these things, Doctor Ramsdell in his *Reconstruction in Texas* says:

"Hampered on all sides by the radicals, under the suspicion of the military and beset by the veiled antagonism of the old secession wing of his own party, Throckmorton maintained his position with dignity and a large measure of success."

On July 8, 1867, eleven months after his inauguration, he was succeeded by ex-Governor E. M. Pease, who held a commission as provisional governor from Sheridan.

Years later when Judge Reagan wrote his memoirs he related that while he was plowing in his field a messenger came from General Griffin at Galveston offering him the governorship that was given to Pease, but he replied that he could not accept an office to which he had not been elected by the people. This incident shows both a good faith on the part of Griffin to select a worthy man, and a political wisdom on the part of Judge Reagan which bore him reward in the years to come.

Elisha M. Pease was a good man. He had come to Texas from Connecticut before the revolution and had held office at San Felipe under the Mexican regime. During the Republic he was a leading lawyer at Brazoria. In the '50s he was twice elected to the governorship by the solid Democratic vote.

He was a Union man in 1861, and had remained quietly at home during the war, and the fact that he was not driven out like many others attests his high standing.

Like Hamilton, he had been greatly aroused by the acts of the convention of 1866, and of the Legislature which followed it, and had thrown his influence against the recognition of the government set up and dominated by the late secession leaders. But he was now to taste the bitter experiences of Throckmorton, and soon to learn that his opposition led him into a fellowship with a dangerous gang more distasteful to his sensibilities than the secessionists he had helped unseat.

CHAPTER LXXX

THE RISE OF THE RADICALS

The plans and purposes of the reconstruction acts of 1867 were simple and direct.

The state governments that had been set up under President Johnson's plan were to go whenever the military machine was ready, and there was to be a registration of all voters, white and colored, for the Republican leaders had given out the fiat that no state would be readmitted into the Union until by its constitution and statutes it declared for the universal vote and full citizenship for the negro. When this registration was completed an election would be called for new conventions to form new constitutions which would meet the ideas of the Northern radicals.

A board of three registrars was appointed for each county and the military commandant who appointed them took care to see that they were "loyal men."

Often these boards were composed of or had negro members and secret orders were given them by General Griffin to refuse registration to a large class of voters whom President Johnson's attorney general had ruled were qualified.

General Grant advised Sheridan to ignore the ruling of the attorney general, and place his own construction on the law, and he and Griffin did so.

By this plan of registering all blacks and excluding a large per cent of the white citizens, a Republican majority was to be assured. Anticipating this glorious result, there was much political activity and the carpet-bagger began to arrive.

Swarms of them travelled through the country organizing the negroes into Union Leagues and teaching them their political and social rights, and these details had so far progressed by June, 1867, that a Republican convention was held in Houston and a state organization effected.

Radical papers, usually edited by carpet-baggers or renegade Southerners, sprang up in every section of the state, and they loudly clamored for a government, state and local, to be controlled wholly by loyal Union men, and for the exclusion of all Confederates from office.

These things had been put well under way before the formal removal of Throckmorton in July, and they moved faster when this "impediment" was out of the way. Among the demands of the radicals was a declaration that the emancipation of the negro was to date from the issuance of Lincoln's proclamation, January 1, 1863, so that all ex-slaves could enforce payment from their former masters for services between 1863 and 1865. Another was the disfranchisement of all "rebels," and a third that all legislation enacted from 1861 to 1865 be declared void.

There was a loud demand for office by the "loyal men" and the constantly increasing gang of carpet baggers and General Griffin carried on a wholesale industry of removals of county officers in all parts of Texas to make way for the faithful.

Usually the Union League from the county would petition for the removals with suggestions for the proper persons to be appointed.

Doctor Ramsdell cites a petition from Dallas County asking for the removal of all district and county officers signed by eighty loyal men all in one handwriting.

There was a general cleaning out of the officials chosen in the elections of 1866 or appointed by Throckmorton, and these proceedings paralyzed the state's official force, leaving many counties without officers and putting vicious white men and ignorant negroes in office.

To add to the misery of the country a terrible scourge of yellow fever raged in Texas in the late summer, and among its victims was General Griffin, who, under the stern, malicious hand of Sheridan, had been the chief instrument in bringing about these results.

In November Sheridan was removed and Gen. Winfield Scott Hancock put in his place, and for the short time he held the post (until March, 1868) he did much to relieve the ruthless rule of Sheridan and Griffin, for which he was loudly abused by the radical leaders and the rabid press which had sprung up to champion the carpet bag rule, which was now well intrenched in power.

Registration went on from May until the latter part of September, 1867, and the boards had been ugly and officious, and though they had extreme instructions from Griffin which gave them powers far in excess of what the attorney general of the United States held they had, they often assumed still more authority. When a white man known to have taken an active part for the Confederacy would apply he would be subjected to an insulting cross-examination, often conducted by a negro member of the board, who would demand to know if the citizen thought that he was any better than a negro, and if his answer to this or any other captious question was not satisfactory he was frequently refused registration.

When the polls were closed and checked they showed 56,678 white and 49,497 colored voters, which was a great disappointment to the radicals, who had counted on a majority, but they well overcame this handicap, as we shall see.

On the 18th of December, General Hancock ordered statewide elections to determine whether a constitutional convention should be held, and if so to name delegates.

The white leaders urged against a convention, hoping to find a more desirable time for it later under better conditions, and thousands of them refrained from voting, which then, as now,

proved a dangerous policy, with the result that only 56,000 votes were polled out of a total registration of over 100,000. Of these, 44,700, or a majority of four to one, were cast for a convention and delegates were chosen.

Thirty-seven thousand of the majority vote were cast by negroes, and this majority chose the personnel of the constitutional convention of 1868-1869.

THIRTY-SEVEN THOUSAND NEGROES VOTED FOR THE CONVENTION

CHAPTER LXXXI

THE CONVENTION OF 1868-1869

It assembled in Austin on June 1st amidst a gloom which overspread the state and filled it with despair.

Grant was the Republican candidate for President, and he was known to be controlled by the radical leaders and spoilsmen of the North who flourished during his administration.

The entire South was under the heel of this ugly regime and the prosperous, thrifty gentry who had controlled the affairs of the state before the war were bankrupt and their slaves had been freed to become their political masters.

Doctor Ramsdell says of this convention that there were ninety delegates, twelve of whom were conservatives who came from sections where there were no negro voters, and of this twelve only one was a man of any prominence or force, and this was Judge Lemuel D. Evans, who had been a member of Congress from Northeast Texas before the war.

There were nine negroes, six or eight carpet-baggers recently arrived from the North, including G. T. Ruby, a New England mulatto, who was the delegate from Galveston and who for many years was the political leader of the colored voters of Texas.

The convention was solidly Republican and almost at the opening hour a row arose which developed into a furious fight and lasted during the remaining years of Republican supremacy.

The convention and the party in the state was at once divided into a conservative and a radical wing.

Andrew J. Hamilton, Governor Pease, Colbert Caldwell and Livingston Lindsay were foremost in the conservative faction, while Morgan C. Hamilton, Edmund J. Davis and James P. Newcomb were the most conspicuous radicals.

Governor Pease sent a message in which he declared, "Since the first of December (six months before) there have been reported to me from sixty-seven counties out of one hundred and twenty-seven, two hundred and six homicides, few of which have been punished," and the keynote of the radicals was the lawlessness which prevailed in the state, which was laid at the doors of the rebels.

Davis was chosen to preside and became the leader of his faction.

For sixty days they wrangled over every question which arose, and early in August the radicals, being voted down on a measure they were urging, halted and organized a separate convention, with James P. Newcomb of Bexar County, one of the evil spirits of these dark days, as chairman, and for a time both bodies went on with no progress towards the business in hand.

Although it was no part of the purpose for which they were assembled, the great fight came over a proposed division of the state.

Some wanted four states, some two, while some were willing to make out with one. Governor Pease suggested a sale of the Panhandle country to the United States to raise some ready money, and Mills, the delegate from El Paso, wanted to sell his corner of the state to the Federal Government to have it united with New Mexico.

These questions were debated with much ardor and consumed more than a month, with no definite result at the 1868 session.

After using up $100,000, all the money allowed for expenses, the convention recessed on the last day of August until the following December, during which interim a tax levy was to be collected.

In December they were back again with less harmony than ever and resumed their row.

The question of dividing the state was reagitated, and after weeks of wrangling a resolution favoring it, offered by Edmund

ANDREW J. HAMILTON

J. Davis, was adopted and commissioners were chosen to present the matter to Congress.

Davis' faction, having won on the proposition to partition the state, now turned its attention to the question of suffrage, and he proposed a provision which would disfranchise almost every person who had participated in the war against the Union. This was the radical plan and under the Fourteenth Amendment it would have been possible.

It would have passed but for the strenuous opposition of A. J. Hamilton, who, aided by Judge Evans, defeated Davis' proposal with a resolution which permitted universal suffrage for whites and blacks alike.

The defeat of Davis' measure was an awful blow and added fury to the fight and widened the factions. While they were in the midst of this, C. W. Bryant, a negro preacher and delegate from Harris County, was indicted for rape.

He was, of course, an adherent of the Davis faction, and they needed his vote and for the time being refused to allow him to be expelled from the convention.

The turmoil continued until the 7th of February, when forty-five members signed the document known as the constitution of 1869 and all hurried home to look after the election for state and county officers which was to be held as soon as the new constitution was accepted by Congress.

Thanks to Hamilton and Evans, this constitution did not contain many of the vicious ideas urged, and contained no restraints on the Legislatures elected under it, and the people were able under its provisions to formulate a plan which worked the overthrow of the radicals four years later. Had it been loaded with the restrictions which Davis and Morgan C. Hamilton proposed it might have taken much longer to eliminate radical rule.

CHAPTER LXXXII

THE TRIUMPH OF THE RADICALS

The fight was now on between Republican factions, the Democrats having been eliminated.

Each faction sent delegates to Washington, the radicals to oppose the acceptance by Congress of the constitution which the late convention had promulgated, to urge the division of the state, and to have the President postpone the elections as long as possible.

Morgan C. Hamilton headed this delegation and it included Edmund J. Davis, J. W. Flanagan, Ruby, the mulatto carpet bagger from Galveston, and Bryant, the negro rapist from Houston, who was still under indictment. The conservative committee included A. J. Hamilton, Judge James H. Bell, George W. Paschal, and A. P. McCormick.

Pease was still provisional governor, but he was a mere figurehead, all authority having been assumed by the military commander, Gen. Joseph Jones Reynolds, who had taken up headquarters at Austin and who ruled Texas with an iron hand during 1868.

This worthy had been a classmate with General Grant at West Point, and had a controlling influence with the new administration in Texas affairs.

Governor Hamilton, for his committee, urged the acceptance of the constitution and the prompt restoration of the civil government. The radicals attacked it because of its failure to disfranchise the late rebels, to which Hamilton replied that neither wisdom nor justice would sanction such a course, and charged that those who proposed it did so from passions engendered by the war and with the ulterior motive to preserve power in them-

selves. He said, "We wish to sit down at our hearthstones in peace once more. We do not desire to prolong a contest which can produce only the bitter fruit of hate."

At this time General Reynolds recognized the decency of the situation, and used his influence with the administration in favor of Governor Hamilton's faction, and it found ready support in Congress as well, with the result that the constitution was speedily accepted and the proposed division of the state had no audience and was dropped.

The President was empowered to call an election in Texas as soon as he thought proper for the purpose of voting on the new constitution and the selection of state officials.

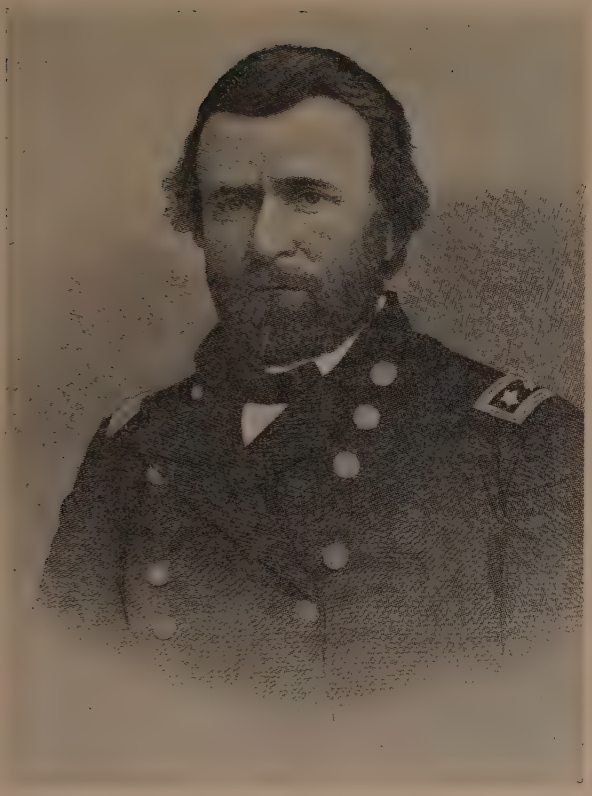
He would and did think proper whenever General Reynolds thought so.

This result was a great triumph for Governor Hamilton, and he was deeply appreciated by fair-minded people of Texas of that day.

The *Houston Telegraph,* which was the old paper founded by Gail Borden at San Felipe before the Mexican revolution and which had been the official organ of the Republic in those stormy days, was the leading conservative paper of Texas at this time, and in its issue of February, 1869, said of Hamilton:

"He has stood as breakwater between us and the floods of ruin. He moved among breakers, shoals and quicksands with the heavens overcast with clouds, and the storm howling around him."

"If we recollect that he labored to give the ballot to those who had bitterly opposed him; that he placed himself in opposition to the extreme members of his own party and even to his own brother; that he labored for a people who he believed had wronged him, when a large number of newspapers in the state were pouring abuse upon him; that he clothed us with the ballot at the risk of having it used against himself; when all of passion and every promise pointed out to him the opposite course as the one most for his interest, then indeed does he stand before us



U. S. Grant, General Reynolds' Friend

a patriot, firm, tried and true, deserving the gratitude of our whole people and of all parties."

The fight between these factions was a thorn in the flesh of the Republican national party organization, and the President, who deprecated any inharmony in party ranks, promised for the present to divide Federal patronage between them equally and for a time did so.

The easy victory of Hamilton's faction and the friendship of General Reynolds seemed to guarantee its success in the coming elections, and had Jack Hamilton been a man of less character he would easily have won. But just at this time a strange thing happened. Reynolds had learned to like high office and his short term as military overlord of Texas put the notion in his head that he should embark in local politics, and he craved a seat in the United States Senate from Texas.

The conservatives named A. J. Hamilton for governor and the radicals put up Edmund J. Davis, but it seemed a foregone conclusion that Hamilton would win.

General Reynolds made a proposition to Hamilton to support him and his ticket in return for their support in behalf of his ambitions to become a senator from Texas. Hamilton indignantly refused to be party to such a bargain, and exposed Reynolds' proposal. Reynolds, who was the dictator of Texas and the classmate of the President, then took his proposal to the radicals, who were quick to see the practical side of the situation and they decided to use him and then throw him aside. And they did.

Grant was a great general, but a failure as an executive. Like Harding in our own day, he came into the presidency at the close of a war, when the greed and avarice of the war profiteer permeated the political atmosphere, and, like Harding, he was surrounded by a corrupt and conscienceless crowd that had and abused his confidence.

The carpet-bag fraternity which swept over the South had its connections in the North from whence it came. Not only Texas

but the whole South was now within easy reach of the greedy grasp of the sinister hand of organized spoil, and the party leaders in the North were called upon to heed the ugly whine of their miserable dirty creatures in the South, who bitterly complained that their plan to build up party machines in these states based on negro votes was being frustrated by men like Hamilton.

The party must protect its future, and to this end in a few weeks the National Republican organization was brought to recognize the Davis wing as the scion pure, and the governor of Massachusetts, who was national chairman, wrote a letter declaring it such. The party and the President not only endorsed the radicals in Texas, but in Mississippi and Louisiana and elsewhere in the South as well.

A state convention was held in Houston in August, 1869, which endorsed Davis' candidacy, and brazenly recommended the adoption of the constitution which they had been fighting up to this hour.

General Reynolds got very busy and wrote the President that he was now convinced (September, 1869) that there was a coalition between Hamilton and the rebels, and that his election would put the state in the hands of the enemies of the Union. And the President came to the aid of the regulars, and, upon word from Reynolds, the conservatives who held Federal positions were rapidly removed and their places filled by Davis adherents.

Governor Pease, who had long ceased to function, sent in his resignation when Reynolds' letter to the President was published, but since Reynolds was running the state there was no need to accept his resignation or name his successor.

And while the President was busy removing Federal appointees who were not of the regulars, General Reynolds got busy and did some wholesale removing of state officials who were an "impediment" to the radical program. Judge Fayle

of the Galveston-Houston Criminal Court was removed because he would not impanel a negro jury to try J. G. Tracy for murder.

Tracy had been a Confederate and editor of the *Telegraph*, a Democratic paper, but he was now turned Republican and a loud and leading supporter of Davis and acting as his campaign manager. Reynolds removed Fayle and named a friend of Tracy to sit in his stead.

Judge Colbert Caldwell was a member of the Supreme Court and had been one of the conservative committee which went with Jack Hamilton to Washington in March. Reynolds removed him because he was supporting Hamilton.

Judge A. H. Latimer, also a member of the Supreme Court, was on the Hamilton ticket, and Reynolds removed him and appointed a Yankee colonel named Moses Walker in his stead. Doctor Ramsdell says that the removal of Latimer was done with great insolence.

Nor did Hamilton get the support of the late secession element to which he was entitled. Some of the leaders of the old days played a dangerous game, looking far into the future. They reasoned that if Hamilton was elected he would give a decent administration and might make the Republican party in Texas semi-respectable, while the election of Davis and four years of his ugly cohorts would leave them and the party in such infamy that they could never recover. They reasoned better than they knew.

The election was held in November, 1869, with the entire machinery in the hands of Reynolds. In some counties known to be strong for Hamilton the election was stopped on frivolous pretexts, and in some others the votes were almost openly tampered with.

The military headquarters in due time gave out a report that Davis was elected by 800 majority. It was generally known that Reynolds had fraudulently manipulated the returns and counted Hamilton out, but he and the Davis wing had the en-

dorsement of the national organization and the backing of the President of the United States, and the fraud was winked at and its perpetrators were permitted to power.

Under these infamous circumstances, the Republican party began its first and last administration of public affairs in Texas.

When the convention which framed our present constitution was in session in 1875 it named a committee to tabulate the vote cast at each election since the war to assist in redistricting the state. This committee was able to find all the returns intact except those of 1869, and reported:

"We are unable to find these returns and our inquiries show that they were taken out of the state by General Reynolds."

When he left Texas he carried with him the data which would have shown that they stole the governorship from Hamilton to further the combine between himself and Davis.

CHAPTER LXXXIII

THE ADMINISTRATION OF DAVIS

The triumph of the radicals was complete, and plans for wholesale plunder were put under way. James P. Newcomb of Bexar County, editor of the *San Antonio Express,* was made secretary of state, and James G. Tracy of Harris County, who had been Davis' campaign manager, took up his headquarters at Austin to be near the treasury, and he and the secretary of state became partners. Tracy was postmaster at Houston, a reward for his apostacy and his support of the radical cause, and was also the publisher of the *Houston Union,* a newspaper devoted to the cause, and also chairman of the Republican party in Texas. He and Newcomb started a new radical paper at Austin, and the two, controlling three radical papers, enjoyed a monopoly of state and Federal printing.

Though Davis was elected, he could only act as provisional governor until Congress should formally readmit the state, and General Reynolds remained the master of affairs for the time being and planned to continue in authority until there was a maturity of his plans to take his seat as a senator.

He called the Twelfth Legislature, whose members had been chosen in the November election, to meet on February 8, 1870.

In order to get rid of any member who was not in harmony with the radical program, he improvised a new and stringent test oath, more exacting than the reconstruction act required, and appointed a carpet-bagger named Butler as speaker for the called term, and directed that all contested seats should be referred to him (Reynolds) for decision.

All contested places in both houses were quickly decided in favor of the radicals, and the stage was now set for the election

of United States senators by the called session, before Reynolds would surrender his power, which would occur as soon as Congress readmitted the state, and the government was turned over to Davis. But General Reynolds had now served the purpose of the radical leaders, and in a few days the state government would be turned over to the elect. There was nothing he could do to long prevent it because the state ticket and the Legislature had been chosen under his hand and had his hearty endorsement. Just now was the time and here the place to throw him overboard, and the radical press unlimbered on him. That he should seek the senatorship at the hands of a Legislature chosen largely by himself was an invasion by the military, and the impropriety of it shocked these worthy guardians of propriety. They forced his withdrawal and quickly chose Morgan C. Hamilton for the short term, which would expire the next year, and for a six-year term to follow. Webster Flanagan was chosen as the other senator, after which they passed a resolution of high compliments for General Reynolds.

Ben Butler offered a bill in Congress sponsored by the reconstruction committee which was passed on March 30, 1870, for the admission of Texas congressmen and senators. The readmission of the state, as provided by Butler's bill, contained some stringent restrictions, among them that the Fourteenth Amendment to the Federal Constitution should be accepted by the oath of all members of the Legislature; that the State Constitution should never be so amended as to deprive the negro of the right to vote, or hold office, or free school rights and privileges.

Five years before, Judge Reagan, in his letter written from a Federal prison, had warned that nothing short of this would get Texas back into the Union, and had urged his people to meet the situation promptly, but his advice had been spurned and he had been insulted for having given it and left in obscurity on his farm while smaller men muddled public affairs.

Texas was now in the Union, and its civil government restored, but it was a government elected under the forbidding

circumstances that have been detailed. Davis was not a crook, but a crank, a petty tyrant nursing the memory of wrongs he had suffered. He was district judge in Southwest Texas before the war, and under pressure from the odious element which terrorized Union sympathizers during the war, had fled to Mexico.

On one occasion while at Matamoros, across from Brownsville, he and several others had been kidnapped by Confederate soldiers, who stole across the river for that purpose, and they were about to hang Davis (and did hang one of those taken with him), but upon the complaint of the Mexican authorities Davis was released.

He had great notions of his high prerogative and was in every way ill fitted for the task before him.

There was wild disorder in many parts of Texas, and the governor determined to organize a state police which would have all the powers, and more, of local peace officers and would be under his control. The effect would be to do away with local government whenever the governor deemed local government unsuited for his purposes. Though the Legislature had been carefully selected by the Reynolds-Davis organization, it showed symptoms of independence, and he only secured the passage of his police measures by arresting fourteen dissenting members and releasing four to make a quorum, keeping ten under duress. In this way his militia bill was quickly passed, and since this process seemed so simple the ten were kept under arrest for several weeks while other administration measures were hurried through.

The trend of all this legislation was to place full power in the governor, and wherever possible public offices were made appointive.

Special charters were granted many towns and cities, and the governor saw to it that they gave him power to appoint the mayors and in some instances the other city officials as well.

Fearing the result of the next elections, the Legislature deferred the selection of congressmen from Texas from 1870 to

1871, with the open admission by the Davis press that it was to keep these offices out of the hands of the enemy as long as possible.

There was a great need of railroad development, and more than fifty bills were offered in this session of the Legislature for the incorporation of and relief for railways. A bill to grant a subsidy of $10,000 per mile for the extension of the Southern Pacific, whose terminus was then at Columbus, was vetoed by the governor, who was on record as opposed to such subsidies, but later in the session he approved a similar subsidy to the I. & G. N. Railway Company. The next year he vetoed and bitterly fought the subsidies granted over his veto to the Southern Pacific and the Memphis & El Paso (T. & P.) Railways.

Davis' efforts were directed to the creation of an impression that the rebels were still at war with authority, in order to make it appear both at home, and especially in the North, that there was a necessity for a stern hand, and give an excuse for the continuance of his regime in power. He hoped to convince Congress of this and secure its aid against the conservative forces which he saw organizing against him.

Two years later Kellogg, the carpet-bag governor of Louisiana, faced with the same situation, deliberately brought on a race war by issuing duplicate commissions to parish officers, one set to the negro ticket and another to the white, and instigating each to fight for its rights. This brought on the Colfax riots which resulted in the wholesale slaughter of a negro mob, and convinced Grant that Governor Kellogg should have the support of the army to keep him in power, and in this way Louisiana was kept under carpet-bag rule until 1876.

While Governor Davis pretended to expect such a condition of affairs in Texas, he was not low enough to precipitate it as Kellogg did, and contented himself with spreading propaganda, and in this campaign he had the able support of Newcomb and Tracy.

Though his novel plan of keeping unfriendly legislators under arrest facilitated the passage of administration measures, it was unpopular even in his own party, and started a storm of protest.

While much lawlessness prevailed and Davis' military police did good service for a time and in some places where the local peace officers were weak and outlaws bold, yet the remedy soon became worse than the disease, and the police force filled with bad men began and kept up a reign of terror, robbery and oppression which filled the state with an outcry against him and his robber constabulary.

Judge Kittrell relates a memory which well illustrates the evil workings of Davis' police:

"I saw the adjutant general, Davidson, ride into Huntsville at the head of an armed squad of state police and post a proclamation declaring martial law and levy a tax of 25c on the one hundred dollars valuation of all property to pay their expenses while in town. I know this because I paid this tax for my widowed mother. Davidson then proceeded to organize a military commission composed of his militia and tried four young men who had been my school mates. Three of them were fined in large sums and the fourth sentenced to the penitentiary for five years and put in prison."

Davis was a despot without any of the elements of leadership, and in a few months he had forced a division in his own ranks and both of the new senators, Morgan C. Hamilton and Webster Flanagan, were at outs with him.

Jack Hamilton's faction grew more aggressive in its opposition, and in every section of the state the Democrats were scheming to come back.

CHAPTER LXXXIV

THE PASSING OF GENERAL REYNOLDS

Reynolds' senatorial ambitions were severally dealt with in 1870 when the radical crowd who had so effectively used him cast him aside and elected Morgan C. Hamilton for the unexpired term which would end in March, 1871, and for the full six year term 1871 to 1877. While Hamilton had been a leader of the radicals, he was not in accord with Davis and his followers in many respects. He had denounced their change of front in 1869 when they faced about and espoused the constitution which they had at first opposed. But he supported Davis against his brother for the governorship and his victory over Reynolds was easy when the Legislature came to elect senators in 1870. His course in the Senate did not please the party leaders in Texas who did not like his independence of utterance and action, and there was soon an open breach between him and Davis.

It was charged that Hamilton had criticized the radicals who had elected him and was in direct conflict with the Republican administration in the state. A correspondent of the *Marshall Weekly,* writing from Austin in March, 1871, said that Hamilton stood in open and direct antagonism to every measure of the state administration and instead of defending his constituents had fought them. That his course had encouraged the Indians to give trouble on the frontier and that the rebels patted him on the back while the rebel press lauded him to the sky. This same writer said, "Old Morg is a bachelor, an infidel, a dyspeptic, misanthropist and a miser, and wholly unfit for a senator." Other papers carried about the same charges and especially emphasized his disappointment to the state administration. The

Daily State Journal, Tracy's paper published at Austin, said on February 7, 1871, that Hamilton was trying to tear down the Republican party in Texas, that he was opposed to both the legislature and the governor, and that he no longer represented the party. About the same time the San Antonio *Express,* Newcomb's paper, said that Hamilton had betrayed the trust placed in his hands, and

"Texas, irrespective of creed or party, should insist upon his immediately vacating the seat, dishonored by his contact. * * * The people of Texas, as one man, should raise their voices in outcry against the shameful abuse of trust this splenetic old wretch has shown."

This crusade by the inspired press brought on an effort to unseat Senator Hamilton in 1871, when the Legislature passed a concurrent resolution declaring that his election in 1870 for the full term which did not begin until after March, 1871, was premature. The houses proceeded to ballot for a senator on the 24th of January, 1871, when General Reynolds receive forty-eight votes and Hamilton only eight. The Democratic vote was cast for E. B. Pickett. Reynolds was declared elected. He was then stationed at San Antonio in command of the Federal forces in Texas, and hastened to Washington with his commission leaving in such a hurry that he overlooked getting the signature of the governor thereto.

On March 4, 1871, at the opening of the session of Congress, both Hamilton and Reynolds presented their credentials in the Senate. Senator Flanagan moved that Hamilton be allowed to come forward and take the oath of office, but Senator Morton of New York presented the credentials to Reynolds. Senator Conkling asked if the credentials of both Hamilton and Reynolds were in form and Morton answered "Yes." Senator Thurman then said that he had been told that there was no signature on the credentials of Reynolds, and he asked if this were so. Morton answered that the credentials of Reynolds did not bear the sig-

nature of the governor but did bear the seal of the state and were certified to by the secretary of state; that the omission of the governor's signature was an accident, and he had written a letter to that effect, which Morton read. The credentials of both were referred to the committee on priviliges and elections.

The *Daily State Journal* of Austin on March 16, 1871, said that Senator Morton championed Reynolds' claims on account of the latter's relations with the president, and this paper seemed to believe there was still some chance for Reynolds to be seated since there was no man who had more influence or ability in the Senate than Morton, and that he was an intimate friend of the President.

On March 18, 1871, the committee on privileges and elections reported a resolution for seating Hamilton, and the Senate adopted it.

Although the contest continued in the Senate from March 4th to March 18th, it seems that Reynolds had conceded his defeat by March 7th, for on that day he left Washington for his post in Texas, and the Washington evening papers published a military order directing Col. J. J. Reynolds, Third Cavalry, commanding Department of Texas, "having completed the business for which he was ordered to this city," to return without delay to the headquarters of his department.

Davis and his followers had made a belated effort to reward General Reynolds for his aid in stealing the election from Jack Hamilton in 1869, and at the same time punish Morgan Hamilton for insubordination.

Reynolds had been in the army since 1839 and in 1867 had been breveted brigadier general for gallantry at Chickamauga and major general for services at Missionary Ridge. After his hasty return to duty following the fiasco of his senatorial efforts, he remained in the army until retired by old age and died in Washington in 1899 in his seventy-seventh year. He may have rendered gallant services at Chickamauga and Mission Ridge,

but his conduct in Texas in 1869 reflects discredit on his memory. He manouvered the radical campaign and made it possible for Davis to steal the election for governor from Hamilton. Texas will ever hold utter bitter contempt for Davis and should and will include Gen. Joseph Jones Reynolds in the list of those who abused and oppressed her people in the dark days of reconstruction.

CHAPTER LXXXV

THE FALL OF THE RADICALS

The Constitution of 1869 had made the governor's term four years, and Davis was seated until 1873, but state elections were to be held for congressional places in 1871, and he bent every energy to defeat the conservative candidates in the four congressional districts. All elections were held in the county seats, and the voters had to walk to the polls between files of Davis police. The white people were now thoroughly aroused as never before to an organized effort to win, and though the voters had to ride to the county seat to vote and often march single file between squads of negro militia, the biggest vote that had ever been cast in Texas was registered and four Democratic congressmen were elected. They were W. T. Herndon, J. C. Connor, D. C. Giddings and John Hancock.

All the while Davis was diligently making enemies in his own party.

The government was necessarily inefficient and the tax rate, which was fifteen cents in 1866, was two dollars and seventeen and one-half cents in 1871, with one dollar poll tax, one dollar road and bridge tax.

A taxpayers' convention was held in Austin in September, 1871, attended by men of all factions, and ex-Governor Pease was called to preside. A report was made to the governor, but it only angered him and he held a counter-convention, largely composed of negroes, and inspired by Newcomb and Tracy.

Pease no doubt now recalled with regret his efforts two years before to disfranchise enough of the rebels to give a safe majority to the "loyal" men who were now in full power, to his great disgust.

In 1872 the test came again in the race between Greeley and Grant for the Presidency. Here was a novel situation, and, as General Sherman said, the Republicans named Grant who had always been a Democrat, and the Democrats Horace Greeley, a life-long Republican. But Greeley had furnished bond for Jefferson Davis, and Grant's attitude towards the South had been dominated by prejudicial and often corrupt sources, and Greeley carried Texas by a good majority.

At the general election in 1872 a new Legislature was chosen. It was overwhelmingly anti-administration, and during the last year of his term Davis faced a bitterly hostile assembly.

He was renominated at the Dallas convention in 1873, and the Democrats held their first real convention since the war at Austin, and named Richard Coke and Richard Hubbard for governor and lieutenant-governor, both ex-Confederate soldiers and both peerless men.

It was a campaign the like of which had not been known since 1859, when Houston beat Runnels, and one which is still remembered after more than fifty years. Dr. Ramsdell says of it,

"To everyone but Davis the result was never in doubt. Stubbornly refusing to believe himself beaten, he carried the fight into the counties with a heavy black population, where he had made himself most hated by the white people. But his personal courage did not avail him. The whites were determined that Davis and the carpet-bag regime must go. It was in a sense a revolution. There is no shadow of doubt of fraud and intimidation in the election. 'Davis niggers' were in many counties ordered to keep away from the polls, and minors were voted. On the other hand, the loyal leaguers were free with their threats."

Coke was elected by a majority of two for one.

CHAPTER LXXXVI

THE SEMI COLON COURT

The constitution of 1869 regulating elections provided:

"All elections shall be held at the county seats until otherwise provided by law; and the polls shall be open four days."

In March, 1873, the Legislature passed a statute providing that each justices' precinct "shall constitute an election precinct," which might be subdivided into as many election precincts "as the justices of peace of the counties may deem expedient." The act also provided that "all elections shall be held for one day only."

This statute, which changed not only the place for holding elections but the time during which the polls should remain open, was approved by Governor Davis in March, 1873, and in the following May an act was passed providing for a general election on December 2, 1873, for state officials.

In due time the governor issued a proclamation for this December election, which required it to be conducted in accordance with the statute of March, 1873, and with common consent the December election was so held, with the results that have already been noted.

Davis and his advisers, if indeed he ever took advice, must have known in advance what the result of these elections would be. Nevertheless, no question was raised about the validity of the election statutes at any time during the campaign.

Immediately after the results were published, there was talk that the validity of the election would be tested in the courts. On the 16th day of December, one Joseph Rodriguez of Harris County, acting through his attorneys, C. B. Sabin and A. J.

Hamilton, applied to the Supreme Court of Texas for a writ of habeas corpus, advising that he had been arrested on the charge of having illegally voted twice in the recent election, and that he was unlawfully restrained of his liberty because the election had been illegally held. Frank M. Spencer, the district attorney for Harris County, appeared for the state and moved for the dismissal of the proceeding on the ground that it was a moot case, not brought in good faith, that it was instigated by Hall, the sheriff of the county, who had been defeated in the December election, and that the purpose of the persons who were behind the litigation was to secure a decision of the court that would declare invalid the entire state election; that the proceeding was a purely political one, and the court without jurisdiction to hear it.

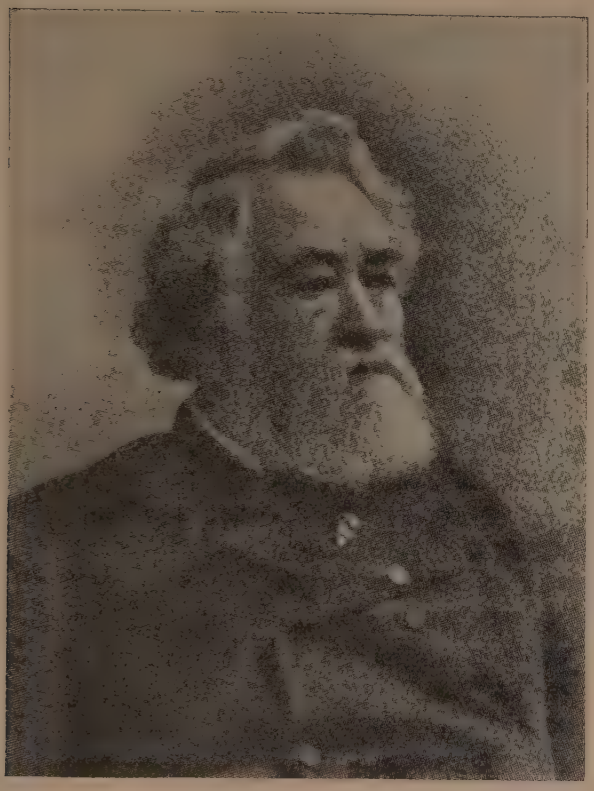
It was shown that Rodriguez was in the employment of Sheriff Hall, who had paid his expenses and the expenses of his witnesses, who had been sent to Austin for the purpose of this hearing.

The Supreme Court at that time was composed of Wesley Ogden, Moses B. Walker and J. D. McAdoo, all of whom were appointees of Governor Davis. Walker, who rendered the opinion of the court, was a Federal army officer who had been appointed to the bench by General Reynolds in 1869, when Reynolds had removed members of the court because they were supporting Hamilton for governor against Davis.

The institution of these proceedings aroused widespread interest, and almost the entire bar of the state lent its assistance to the district attorney in his efforts to have the proceeding dismissed and avoid the rendition of a partisan opinion affecting the status of the entire ticket that had been elected on December 2nd.

At the opening of the proceeding, Judge McAdoo observed,

"The case is a curious one, the state seemingly desirous not to prove the relator guilty of a charge, while his attorneys seek to prove his guilt."



Moses B. Walker

Governor Hamilton, for Rodriguez, was undertaking to show that he voted twice, and offered to prove it, but that he had committed no offense because the election was illegal. The district attorney sought to prove that he had only voted once, and that the entire case was a fabrication. In reply to charges that political motives were behind the case, Hamilton disclaimed any purpose to do more than fairly represent his client, charged with an offense, which was obviously untrue.

He said,

"The court is not expected to go out of its way to say a word about the election with regard to who was elected and who was not."

Digressing, and for answer to charges made against him, Hamilton said,

"My course since the war has been closely scrutinized and severely criticized, but I am not ashamed of my public record. I have never violated any oath of office by which I was vested with power. The failure to reconstruct the state in 1866 has been attributed to me, but they cannot lay it to my charge. It is the fault of those who make the charge, and had they listened to my earnest advice at that time the state would not have been reconstructed, but they did not heed me. I told them the Government of the United States would not allow them and their conventions and Legislatures to disregard and trample on the rights of free American citizens. I could not have prevented the interference of the National Government had I made the effort, nor could the voices of ten thousand such as I. I am charged with opposing and disturbing these gentlemen and their partisan friends in the past, and I am here again for the same purpose. But I do not take my lessons in patriotism from those who in 1861 were members of a mere mob, styling itself a state convention, which gloried in overthrowing the state government and in tearing down the United States flag. I never fought against the flag of my country; neither did I learn my lessons in patriotism in a foreign land under a carpet-bag emperor, who was shot for

interfering with the liberty of the people of Mexico. There is not an act in my public life that my children need blush for when I am at rest."

It will be seen from a report of the case that the inquiry was wide open, and that instead of trying Rodriguez as Hamilton contended he wanted the court to do, the entire political situation in Texas was put at issue. Col. Moses B. Walker rendered the opinion of the court, and had no difficulty in holding that while Section 6, Article 3 of the constitution gave the Legislature right to change the *place* of holding an election, it had no right to change the *time* for keeping the polls open. He made his decision turn largely upon the position of the semi-colon in the clause quoted, and held that that part of Section 6 following the semi-colon was not in any way qualified by the language which immediately preceded this punctuation mark, and while the Legislature could otherwise provide "the polling places" that all elections must last four days until the constitutional provision was changed which the Legislature was powerless to do. Holding that the Legislature was without power to provide that all elections should be concluded in one day, the effect of the decision was that the state-wide election of December, 1873, was invalid because the polls had not been kept open for four days.

The people of Texas had long learned to look upon the Supreme Court with great respect and to accept its decisions as the law of the land. Since the formation of the state government in 1846, it had been composed for the most part of great judges. But the circumstances under which this case originated and the obvious purpose of the Davis administration to upset the elections, through the instrumentality of a political court appointed by the governor, aroused at once a sentiment bent on the defiance of the court's order, if necessary to accomplish the inauguration of Governor Coke and the incoming Legislature.

The three members of the court who rendered this opinion were held up to the scorn of that generation, and for nearly

fifty years lawyers have hesitated to cite any of its opinions as judicial authority. More than once the appellate courts of Texas have announced that they do not regard decisions of this court, found in Volume 33 to Volume 39 of our Supreme Court reports, as respectable authority, and the court has passed down into history under the odious epithet of the semi-colon court.

CHAPTER LXXXVII

THE EXIT OF DAVIS

The governor was now backed by a decision of the Supreme Court of Texas holding the election invalid, and on the 12th day of January, 1874, issued a proclamation reciting that:

"Whereas the Supreme Court of the state, in a recent decision, declared the elections held on the 2d day of December, 1873, * * * to be invalid, by reason of the unconstitutionality of the law under which said elections were held; and

"Whereas great public injury and further dangerous complications of public affairs are likely to result from any attempt on the part of those claiming to have been chosen as members of the Legislature, and other officers at said election, to assume the positions they claimed,"

"Therefore, they are ordered not to attempt to assume their positions and 'all good citizens are advised to abide by the decision of the competent tribunal and aid in maintaining order'."

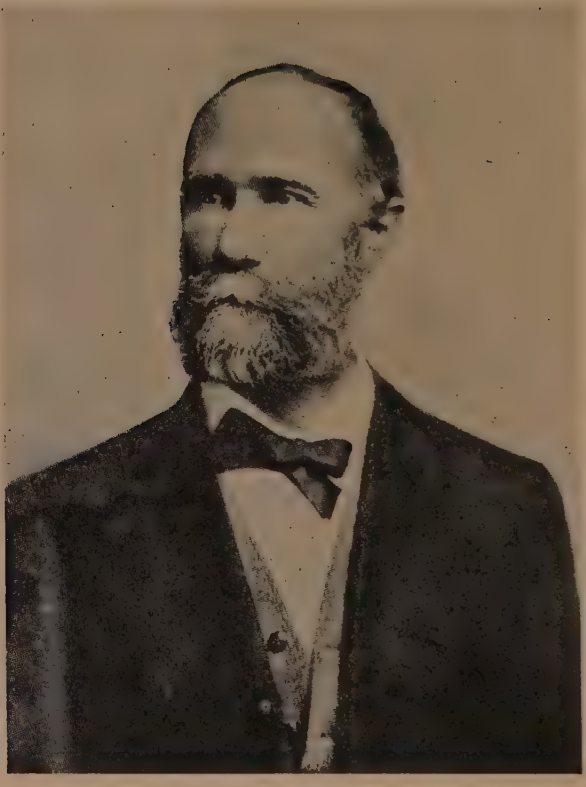
The governor did not content himself with this proclamation, but he at once got in communication with the Washington Government and sought to convince the Grant administration that the election held in Texas was illegal.

The Texas delegation in Congress at that time was composed of four Democrats in the Lower House who had been chosen in 1871 and the two radical senators, Webster Flanagan and Morgan C. Hamilton. Immediately after the news of the Rodriguez decision reached Washington, the Democratic congressmen hurried to the President to urge him not to interfere in behalf of Davis, and the radical Senator Flanagan was equally diligent

in the behalf of his friends at home. On January 12th the following dispatch appeared in the New York *Tribune*:

"The representatives of both parties of Texas have been laboring with the President of late. The conservatives got the start of their adversaries, and on Saturday Congressmen Hancock and Giddings had a long interview with him, presenting the constitution of the state and the election law and giving a detailed history of the whole trouble. The President listened with great interest, and expressed the same opinions as are given in his dispatch of today in reply to Governor Davis' call for troops. He said the time to declare the election law unconstitutional was before the election was held under it, and assured the Texas members that if Davis called for aid to prevent the inauguration of the new government, he should refuse to grant it.

"This morning Senator Flanagan went to the White House to urge the President to sustain Davis, but he obtained no encouragement, and was told with considerable warmth that Davis had signed the election law, that he had been a candidate under it, had been disgracefully beaten, and that it was time that he got out of the way. The President added that he wanted no repetition of the Louisiana business. After this interview Flanagan telegraphed to his friends in Austin that they had better withdraw all opposition to the meeting of the Legislature tomorrow, and the inauguration of the governor elect on Thursday. At the same time the Texas representatives sent a dispatch to the Democratic party leaders announcing the President's decision, and advising the regular and orderly installation of the new state government. The whole trouble is regarded as settled by one stroke of the President's pen, and his prompt and sensible decision is commended on all hands. The leading Republicans are as much pleased as the Democrats to find that the danger of an armed conflict in Texas is averted, and that there is no longer any cause to apprehend that another state government will be overturned by Federal bayonets."



EDMUND J. DAVIS

On the same day the President sent Governor Davis the following wire:

"Executive Mansion, January 12, 1874.

"To Governor Davis, Austin, Texas:

"Your dispatches and letters reciting the action of the Supreme Court of Texas, in declaring the late election unconstitutional, and asking the use of troops to prevent apprehended violence, are received. The call is not made in accordance with the constitution of the United States and the acts of Congress under it, and cannot, therefore, be granted. The act of the Legislature of Texas providing for the recent election having received your approval, and both political parties having made nominations, and having conducted a political campaign under its provisions, would it not be prudent, as well as right, to yield to the verdict of the people as expressed by their ballots?

"U. S. Grant."

The following day both branches of the fourteenth Legislature convened without opposition from the governor or the Federal authorities. The members quietly walked up to the capitol and occupied their respective assembly rooms. The halls were well filled and there was a large crowd in the lobby. John Ireland was elected president pro tem of the senate, and a joint committee was appointed by the two Houses to wait on Governor Davis and inform him that the fourteenth Legislature was now organized and ready to receive any communication he might have to make.

But Davis was not through yet. He now advanced the contention that his term of office did not expire until the 28th of the following April, and, under his instructions, Newcomb, the secretary of state, declined to deliver the election returns to the legislative committee that was to canvass them and officially declare the result of the election.

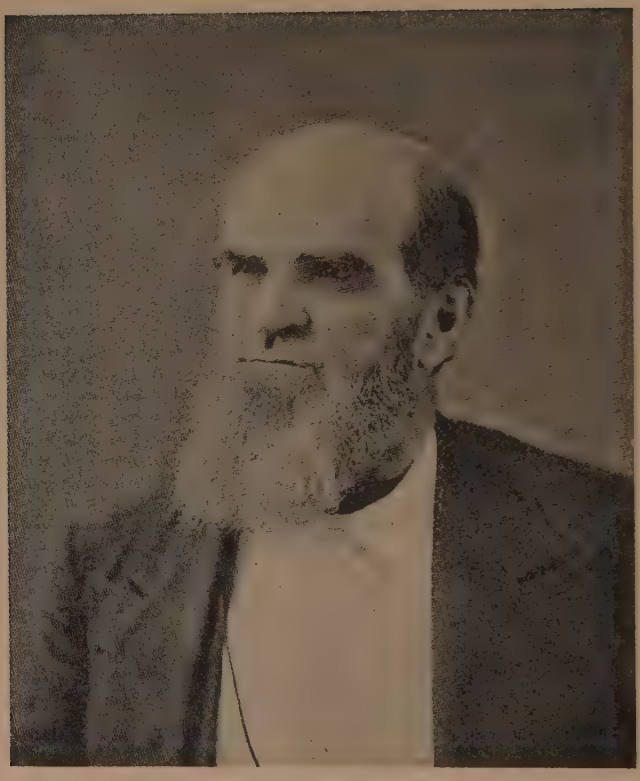
On the 15th, the returns having been taken from Newcomb's office, the two Houses in joint session canvassed the vote, declared Coke elected governor, and he was inaugurated.

Davis and his backers still occupied the basement of the capitol. General Augur, military commander of the Department of Texas, had sent Major Russell from San Antonio to Austin, who reported that Augur had said that General Grant had said that if there should be any collision between the contending parties and there should be bloodshed, Augur should take charge of the state government and appoint a military governor. This was no doubt what the radicals hoped for. The same trick had been worked in other states, notably in Louisiana, where the carpet-bag Governor Kellogg had prolonged military occupation for several years by bringing on a conflict which furnished the excuse for further Federal intervention.

An immense crowd of Coke's followers assembled in the upper part of the capitol. Many of them were excited and made more than one determined effort to get at the Davis men in the lower story, but the democratic leaders in charge were cool and deliberate men. They had suffered much during the last ten years and while they were determined to back Governor Coke to the last, yet they were equally determined not to allow Davis and his military attendants to bring on a riot, if by patience and forbearance it could be avoided.

A committee was formed composed of George B. Zippleman, sheriff of Travis County, Henry E. McCullough and T. B. Wheeler, mayor of Austin, who took charge of the dangerous situation.

An army captain by the name of Hill, with twenty or thirty negroes, forcibly seized Mayor Wheeler and dragged him away toward the bull pen, where military prisoners were kept. After he had been subjected to considerable rough treatment, he turned to Hill and his posse and denounced them, and told the negroes that a few bad white men were misleading them and if they brought on a fight the whole colored population of Austin would



GOVERNOR RICHARD COKE

be killed. More than half of Hill's negro posse renounced any hostile intention and deserted the command.

The arrest of the mayor aroused the city to the point of frenzy, and the people assembled en masse with such arms as they could secure, ready to do battle. Major Mart Royston, who had been treasurer under the Throckmorton administration, was in command of the citizens, and did his best to organize them into an orderly troop for the rescue of the mayor, but before this was effected Wheeler had been liberated.

A dispatch from Austin to the Galveston *News*, dated January, 15, 1874, advised:

"This evening General Britton had a number of armed men standing sentinels in the basement of the capitol, to prevent ingress and egress of the state forces. Some of the force were white and some negroes, all with muskets and bayonets fixed. General Britton appears in full dress uniform."

Two days later the same paper announced:

"Governor Davis still holds out. His friends say he will await the result of the cabinet meeting at Washington today.

"This evening the seven ringleaders of the mob who arrested the mayor yesterday were arrested on a civil process."

On the evening of the 16th Governor Coke addressed a firm but respectful communication to Davis, asking that he turn over the executive office and archives. To this Davis replied the following day:

"I am myself governor of the state until the 28th of April next." Then he proposed that they submit the question of who was governor to the President or Congress of the United States, or both.

Coke declined these suggestions and on the evening of the 17th of January the attorney general of the United States wired Governor Davis as follows:

"Your telegram of yesterday, stating that, according to the constitution of Texas, you are governor until the 28th of April next, and that Hon. Richard Coke has been inaugurated and will

attempt to seize the governor's office and buildings, and calling upon the President for military assistance, has been referred by him to me for an answer, and I am instructed to say that, after considering the 4th section of article 4 of the constitution of Texas, providing that the governor shall hold his office for the term of four years from the date of his installment, under which you claim, and section three of the election declaration attached to said constitution, under which you were chosen, and which provides that the state and other officers, elected thereunder, shall hold their respective offices for the term of years prescribed by the constitution, beginning from the day of their election, under which the governor-elect claims the office; and more than four years having expired since your election, he is of the opinion that your right to the office of governor at this time is, at least, so doubtful that he does not feel warranted in furnishing United States troops to aid you in holding further possession of it, and he therefore declines to comply with your request."

Sullenly and with bad grace, under pressure from Washington and more urgent pressure at Austin, Davis retired to private life and Col. Moses B. Walker went back to Ohio. All that was left of the radical regime were the two United States senators, Morgan C. Hamilton and Webster Flanagan, and when their terms expired they were promptly replaced by better men.

CAPITOL AT AUSTIN

CHAPTER LXXXVIII

THE FINAL LOCATION OF THE STATE CAPITOL

In a former chapter we have traced the history of the location of the state capitol at Austin in 1839. The Constitution of 1845, which was promulgated there, provided that the capitol should remain at Austin until 1850, when an election should be held for the selection of a capital site. Such an election was held in 1850 to determine its location for the next twenty years, and Austin was successful in the contest. The Constitution of 1869 provided that at the next general election the question of the location of the seat of government should be decided by the people. Such an election was held in November, 1870. A serious effort was made to remove the capitol, and among the places contesting with Austin were Houston, Waco, Dallas, Bryan, Millican, Murphreysboro and Hearne. The contest finally settled down between Austin and Houston. As usual, the newspapers in the state were divided, most of them supporting Austin. The eastern and southern parts of the state favored Houston. There was an open threat that if the capital were located at Houston, the state would be divided, and there was a charge that the negro vote was being manipulated in favor of Houston. The contest seemed much more critical than it really was, for when the votes were counted Austin had fifty-three thousand, Houston thirty-three thousand and Waco nine thousand.

The Constitution of 1876 set aside three million acres of land to be sold for the erection of an appropriate capitol building, and in 1879 the Legislature provided a commission composed of the governor, comptroller, treasurer, attorney-general and land commissioner, who would have charge of the contract and the

construction of the building. This contract, however, was not executed until 1882. In November, 1881, the old capitol was destroyed by an accidental fire. A stove had been placed in the attorney-general's department and, by mistake, the pipe extended into an adjoining room full of combustible material, instead of being placed in a flue. Various official records were either wholly destroyed or greatly damaged.

THE CAPITOL AT AUSTIN IN 1870

Abner Taylor of Illinois became the contractor and the three million acres of land were conveyed to him and his associates. It was located in the counties of Dallam, Hartley, Oldham, Deaf Smith, Parmer, Castro, Bailey, Lamb and Hockley. The cornerstone of the new capitol was laid on March 2, 1885, the forty-ninth anniversary of independence. It was of Texas granite and weighed 16,000 pounds. The granite was hauled from the quarry in Burnett County to the Town of Burnett fifteen miles away, on a wagon-drawn by sixteen yoke of oxen, and was shipped from Burnett to Austin. The occasion of the laying of

the cornerstone was made a most impressive one. Veterans of the various Texas wars, including the San Jacinto campaign, were there. The ceremonies were conducted by the Masonic order, and Temple Houston, son of the founder of the Republic was one of the orators of the day.

CHAPTER LXXXIX

THE KU KLUX KLAN

The operations of the Loyal League which was spread throughout the South by Federal soldiers and carpet-bag camp followers had been the means of organizing negroes against their former masters and inciting them to many deeds of impudence and violence. In Fort Bend County the league was so militant that one of the lodges started out to hang certain white planters against whom some of the negro members had a grudge, and plantations were terrorized by negro mobs all along the lower Brazos. The condition was never as bad in Texas, however, as in other southern states where the negro population was in absolute control of the state government through the aid of white manipulators.

Attorney-General Gregory in an address delivered before the Arkansas and Texas Bar associations in 1906 gave the following account of the origin of the Ku Klux Klan:

"In June, 1866, in the little town of Pulaski in Southern Tennessee, near the Alabama line, a few young men, finding time hanging heavily on their hands, met in a law office one night and concluded to organize a society of some kind; some one suggested they call it Kukloid from a Greek word meaning 'circle' and some other person present said, 'Call it Ku Klux,' and the word 'Klan' was then added to complete the alliteration."

At first it had no political significance, nor did its founders intend it for the purposes to which it was soon put. But conditions became so intolerable throughout the South that some device was necessary to offset carpet-bag tyranny and negro domination. Wherever the brutal encroachments were met with force

and negroes were killed, this served the purposes of the radical instigators who could call Federal soldiers to their aid, and such clashes meant continuation of military rule. It was necessary, therefore, to find some means of frightening the negro from his political activities and avoiding bloodshed. Who first devised the plan of using the ghastly regalia and mystic name of Ku Klux Klan in this enterprise is not definitely known, but a few trials in that direction worked well and the colored population, seeing the mystic riders holding meetings in graveyards and parading the country in shrouds, were brought to lose much interest in public affairs.

During the period 1867 to 1875 the order spread all over the South and became a powerful aid against the intolerable condition that inflicted the country all of the way from Virginia to Texas. As was inevitable, bad and desperate men, sometimes inside and sometimes outside the order, shrouded themselves to commit murder and robbery and all kinds of crime. But for the most part, its affairs were dominated by cool-headed and well-meaning persons whose sole aim was to frighten the negro, break up the Loyal League and aid in the restoration of public affairs to the better element.

The carpet-bag leaders were confronted with a situation which was beyond their control, and they loudly complained to their backers in Congress and to the extremists in the north, with the result that the Ku Klux Klan was a chief topic of discussion in the National Congress during those years.

In 1872 Congress appointed a joint committee from the two houses to inquire into the condition of affairs in the late insurrectionary states. It might have been well called a committee to investigate the Klan. It held sessions throughout the states east of the Mississippi River, gathered testimony which filled thirteen volumes, and in due time made its report to Congress. The majority report which was signed by the Republican members of the committee extolled the Loyal League as a benign institution, denounced the minority in the South who sought

to control a majority, and reported the Klan as a wicked institution which should be destroyed, root and branch.

Speaking of the Loyal League, the majority acclaimed it

"A political organization formed not to instigate or encourage crime but in the aid of the Union."

The Ku Klux Klan, they denounced "A conspiracy breaking in open rebellion against the Government." The report of this committee includes a communication from Gen. Joseph J. Reynolds, from Texas, in which this worthy advises

"Armed organizations generally known as Ku Klux Klan exist independently or in concert with other armed bands in many parts of Texas, but are most numerous, bold and aggressive east of the Trinity River. The precise objects of the organization cannot be readily explained, but seen in this state it is to disarm, rob, and murder Union men and negroes, and, if occasion may offer, murder United States officers and soldiers, also to intimidate anyone who knows anything of the organization but who will not join it."

The leading spirits in the majority report were Zachary Chandler, United States Senator from Michigan, and Benjamin F. Butler, Member of Congress from Massachusetts.

There was a minority report signed by the Democratic members of the committee, including Senators Blair and Bayard, which powerfully portrayed the real conditions in the South, and found that the outrages which should be published were "The atrocious measures by which millions of white people have been put at the mercy of the semi-barbarous negroes of the South, and the vilest of the whites, both from the North and South, who have been constituted the leaders of this black horde now seek to be justified by defaming the people upon whom this unspeakable outrage has been committed."

The result of the investigation was to bring officially to the attention of the decent people of the North the real condition throughout the Southern states, and while the committee did not come to Texas, yet the minority members gathered data from

this state and pointed out the wicked results of radical rule during the Davis administration.

When the better people of the North came to know the real grievance of the southern people, as reflected by the minority report of this committee and by the independent newspapers North and South, there was a revulsion of feeling which came so near defeating the Republican party in the national election of 1876 that it was necessary for the party leaders to fabricate election returns and steal enough votes in Louisiana and Florida to elect Hayes President.

With the restoration of the state governments of the South to the southern people, the Ku Klux Klan vanished and became only a memory. To extol it as having all the virtues that are claimed for it by Thomas Dixon, or to denounce it as having all the vices that are advertised in the majority report of this Congressional committee would be equally wide the mark.

After it had served its usefulness and disappeared, various similar organizations known as the Constitutional Union Guards, White Brotherhood, White League, and Knights of the White Camelia sprung up throughout the South for a while, and the work done by these latter organizations was for the most part reckless and violent in its character, and even the author of *The Clansman* could find nothing good to say for these degenerate offshoots of the original Klan.

The old Klan of blessed memory in the hands of the best men of the South performed a great mission, and it would have been well for its name and fame had it been buried forever along with those troubled days. Its resurrection in our day was a sad mistake which has been the means of plunging the state into an infamy as great as that which the fiery cross of the '70s was raised to dispel.

CHAPTER XC

LOOKING BACKWARD

More than half a century has passed since the curtain fell on the radical regime and a new generation has come to Texas, and while the bitterness of those frightful days has gone the memory of Edmund J. Davis and his carpet-bag negro rule is held in scorn by our people. The men who in 1869 planned to let him be elected and sink his party into ruin worked well.

In 1924 when the people came to choose between an uneducated and inexperienced woman, the wife of the impeached Governor Ferguson, and Maj. George C. Butte, a talented and educated gentleman, Butte and his party were charged and convicted with the misdeeds of Davis fifty years before.

Doctor Ramsdell says of Davis:

"He has not been fairly judged. He was self-willed, obstinate and pig-headed almost beyond belief; a most intense and narrow partisan, who could see nothing good in an enemy, nothing evil in a friend. Surrounded by a group of unprincipled adventurers he suffered from their advice and their acts. Yet his administration was his own, and he guarded it with the hand of a martinet. He had no regard for the popular will and consulted no desires but his own, yet it cannot be shown that he ever diverted one dollar of public money to his own use."

After all, Texas suffered less from both the war and reconstruction than most of the other southern states.

In Louisiana, Wormouth and Kellogg, carpet-bag governors, with a negro lieutenant-governor and legislatures to match, aided by the Grant administration, kept the state under alien rule until 1876. For years the annual school fund of that state was

almost openly stolen and in four years they spent one hundred and six million dollars.

But there were two outstanding saving features in the Texas situation. Jack Hamilton, at the cost of his political future, so far dominated the Constitutional Convention of 1869 as to make it work out a fairly good document free from any radical clauses behind which the party in power could intrench itself against a popular election and legislative control. He defeated all efforts to disfranchise the "rebels" which would have kept the radicals in power until a new constitution could be adopted.

And Edmund J. Davis, though a crank and a tyrant, was not a grafter.

Had the convention adopted the Davis proposal and disfranchised the ex-Confederates, it would have been a valid provision under the reconstruction acts and the fourteenth and fifteenth amendments, for that was what they were designed to accomplish. It would have required a constitutional amendment to have removed these restrictions and the disfranchised majority could not have voted in an election to adopt this amendment. Such a situation would have brought on woe and years of strife.

Though the people of the South have never believed they were wrong, they have long ago come to rejoice that the Union was saved. The great underlying issue in the war was states' rights and upon this they were right. But the cause of the war was slavery, and upon this they were wrong.

It is unfortunate for state sovereignty that the great and sacred principle of states' rights had to be tested along with the issue of human slavery, and that the sword that was flashed to protect the one was wielded to perpetuate the other.

Looking back through the years, one wonders what would have been the fate of the Confederacy had it won, and we know now it was perilously near victory on more than one occasion.

The great leaders who dominated the South were the type that build empires, and it was under their aggressive leadership a few years before that Polk was elected president and the Mexi-

can war fought and won. There is little doubt that if they had succeeded, the Confederacy would have forcibly taken Mexico and the West Indies. In 1861, after secession had been completed, the Mexican minister at Washington expressed alarm at the declarations of certain Southern statesmen and publications regarding the future absorption of Mexico. In 1862 our James Riley of Houston, ex-minister to Russia, and a Confederate army official, wrote John H. Reagan, postmaster-general of the Confederacy, that the Southern cause had influential friends in Chihuahua, and that this large and glorious nation would improve by being under the Confederate flag. He said:

"We must have Sonora and Chihuahua. With them, we gain Southern California and by a railroad to the Pacific render our State of Texas the great highway of nations. You are at liberty to lay this note, if you see fit, before President Davis."

In 1861, it was believed by members of Lincoln's cabinet that the Confederate states were going to seize Tamaulipas, Nueva Leon, Coahuila, Chihuahua and Sonora. In view of the danger of this, the Federal Government considered an advance into New Mexico and Texas to cut off such expeditions. In December, 1864, Francis P. Blair, of Maryland, received President Lincoln's permission to visit President Jefferson Davis at Richmond. Lincoln advised him to go in order to learn the attitude of the Confederacy towards proposals of peace. Blair, who was always charged with being at heart with the South, proposed a cessation of hostilities and that the northern and southern armies join and march into Mexico to drive out Maximilian. The peace proposals of Blair amounted to a joint filibustering expedition by which the United States possessions were to be extended to the isthmus.

Similar proposals were made to southern leaders through Gen. Lew Wallace, who proposed a joint invasion of Mexico, with the suggestion that the success of this scheme would stagger the rebellion.

In 1863 ex-Senator William M. Guinn, of California, a former Mississippian, turned up in Paris and applied to Louis Napoleon, whose armies were then in Mexico, for a grant to found an American colony in Sonora. It was reported of Guinn's mission that he intended to colonize with persons of southern birth or sympathies. The Emperor Napoleon referred him to Maximilian, and he continued his efforts for two years.

There was much talk in the South at the beginning of the war for the acquisition of Cuba. The Democratic platform adopted at the Houston convention in 1859 declared for it, and the Knights of the Golden Circle, who aided to bring on the war, dreamed of an empire from the Potomac to the tropics. What might have been had the red tide turned back that day at Gettysburg God only knows.

CHAPTER XCI

THE CONSTITUTION OF 1876

Immediately after the fall of the radicals, the Democrats in Texas began voicing the universal sentiment for the abolition of the 1869 constitution. The Democratic State Convention of 1873 demanded the call of a constitutional convention but Governor Coke counselled deliberation, urging that the matter be postponed for a while. This was partly due to the fear that he and other far-seeing men entertained that any immediate efforts to tamper with the Radical Constitution might bring on the displeasure of Grant's administration, which was yet maintaining military government in some of the southern states.

In 1875 Coke reckoned that the time had now come to formulate a new constitution, and in his message to the Legislature he said:

"In its incongruous, repugnant and heterogeneous provisions, it (the Constitution of 1869) faithfully reflected the extraordinary character of the assembly and the disordered times which produced it. * * * Prudence and policy prompted submission to it. * * * No reason exists now for longer submitting to it. The causes, which one year ago rendered it imprudent to call together a constitutional convention, have ceased to exist. * * * We no longer fear Federal interference; we are not hampered by financial embarrassment; the popular mind is free from passion or excitement, and views the great questions to be solved through no discolored medium; and last, but not least, for twelve months past the thinking men of the state have been studying and investigating the subjects to be dealt with in framing a constitution and now we are ready to act."

During its second session, the Fourteenth Legislature, in March, 1875, ordered the question of calling a convention to be submitted to the people to be voted upon at an election to be held the first Monday in August, 1875. Provision was made for the election of ninety delegates to the convention, to be elected at the same time the people voted "For a convention" or "Against a convention."

There were many defects in the Constitution of 1869 which required correction. The principal objections to it lay in the fact that it was drawn to confer so much absolute authority on the governor. In a memorial which citizens of Dallas addressed to Carl Schurz as early as 1871, it was pointed out that Governor Davis had the appointment of all of the appellate and district judges and district attorneys in the state, of various other state, county, municipal and school officials aggregating over eight thousand persons.

The convention which formed the Constitution of 1876, at the conclusion of its labors, issued an address to the people of Texas outlining the defects of the old constitution and their reasons for presenting the new one. Among the deformities that they imputed to it were the excessive taxation that it entailed; an unwieldy and expensive judicial system; a vast partisan system under the pretense of maintaining schools; an irritating, expensive state police; a multitude of irresponsible and useless officers, ignorance, prejudice and sometimes corruption in the state departments; twelve million dollars in money subsidies voted for railroads; high salaries even to the petty and useless officers of the school department; the power assumed under it by the governor to declare martial law and suspend the writ of habeas corpus. These were only a few of the outstanding errors which the people conceived abounded in the Constitution of 1869.

The election held in March witnessed new forces and influences hitherto unknown in Texas politics. Two years before the first organizations of the Texas State Grange were made in

JOHN H. REAGAN

Texas, and in 1873 it was estimated that this order had a membership of approximately fifty thousand. The farmers of Texas had begun that long period of organized political activity which manifested itself for the next thirty years.

The Democratic Convention of Harris County selected delegates to represent the district composed of Harris and Montgomery counties and headed the delegation with Dr. Ashbel Smith, the last remaining outstanding character of the days of the Republic. It was generally hoped over Texas that Doctor Smith would be elected, and the Austin *Statesman* had gone so far as to suggest him as chairman for the convention. But owing to the overconfidence and indifference of the Democratic voters of this district, all of their candidates were defeated and a republican lawyer by the name of Cline headed this delegation. The convention contained forty-one farmers, twenty-nine lawyers, a few merchants, editors, stockmen and physicians. About one-half of the delegates elected were members of the state grange. The list included H. N. Darnell of Tarrant County, then in his seventy-sixth year, who had been a member of the Constitutional Convention of 1845. There were several delegates who had sat in the Secession Convention in 1861, among them John Henry Brown, the historian, George Flournoy, Sterling C. Robertson, Fletcher S. Stockdale, John R. Henry, John S. Ford, Joshua F. Johnson and John H. Reagan. The new convention contained only one man who had been a member of the ill-fated convention of 1866, but no member who had sat in the convention of 1869.

Judge Reagan was the strongest member of the convention and much of the constitution was his handiwork, but he was not alone in the class of conspicuous ability. There were other able and interesting men among the ninety delegates chosen. Joel W. Robinson, the delegate from Fayette County, was a soldier at San Jacinto forty years before, and the captor of Santa Anna, W. P. Ballinger of Galveston, was a great lawyer and had been named a member of the Supreme Court in 1873. L. S. Ross from

Waco was soon to be governor. W. L. Crawford of Marion and D. A. Nunn of Crockett were long leading lawyers. E. B. Pickett, who presided over the convention, had been the Democratic candidate for the United States Senate when General Reynolds was named by the radicals in 1871. Rusk County was represented by ex-Senator Flannagan, and Harrison County by the able but unscrupulous Stilwell H. Russell. Thomas L. Nugent from Erath County was the Populist candidate for governor in 1892 and 1894. John L. Henry of Smith County was afterwards a member of the Supreme Court. E. L. Dehoney of Paris, the father of the prohibition movement in Texas, was the author of the local option clause in the constitution. Other members of outstanding ability were L. W. Moore of Fayette, J. W. Ferris of Ellis, W. G. T. Weaver of Cook, Judge C. S. West of Travis. Judge Robert W. Stayton, delegate from Victoria was appointed to the Supreme Court by Governor Roberts a few years later and by many has been regarded as the greatest of our judges since John Hemphill. There were six negroes, among them L. H. McCabe of Fort Bend County. The committee on education was headed by Gen. J. W. Whitfield of Lavaca County who had served with distinction in the late war. McCabe was a member of this committee. General Whitfield at once assigned McCabe to the duties of valet for the committee, instructing him to always provide ink, paper, water and chairs and look after the comfort of the committeemen. McCabe accepted the commission pleasantly, and the committee went forward without any friction.

All in all the body that formed the Constitution of 1876 was one of the strongest that ever met in Texas, and the very careful consideration they gave to its provisions resulted in the formation of the document which is still the fundamental law of the land.

The members of this convention had before them a long line of Texas constitutional history. This was the eighth constitution that had been prepared for the State of Texas. The first one was for the states of Coahuila and Texas in 1825. Austin

had much to do with its formation and the Baron de Bastrop of Bexar was the Texas delegate to that convention. A second constitution had been drawn in 1833 when the colonial convention at San Felipe decided to petition for separate statehood for Texas, but owing to the animosity of Mexican officialdom it was never presented. Our third constitution was the hurried outline for the provisional government prepared by the Consultation at

BIRDSEYE VIEW OF HOUSTON, 1876

San Felipe in 1835, while the patriot army was besieging San Antonio. The fourth one, that of the Republic, was prepared in March, 1836, and the fifth was drafted and adopted when Texas entered the Union in 1845. Thomas J. Rusk was the chairman of this convention, and its delegates included most of the leading characters of the days of the Republic. Daniel Webster said of it when it was tendered on the admission of Texas, that it was the strongest of the American state constitutions. This encomium of Webster upon our fifth constitution stayed with it through the years, and there was some sentiment in favor of readopting it in 1876. The sixth and seventh constitutions of

Texas were those prepared in 1866 and 1869. And now, for the eighth time, our people had set themselves to the task of preparing a great charter.

The watchword of the convention was retrenchment. Times were hard. Farm products were low. Taxes were heavy and the extravagance of the Davis administration was a matter of general reproach. The delegates to this convention bestirred themselves to fix salaries for public officials at the lowest possible point. The governor's salary was reduced to four thousand dollars; that of the secretary of state to two thousand; treasurer and land commissioner, two thousand; attorney-general, two thousand; judges of the Supreme Court, three thousand five hundred and fifty; district judges, two thousand five hundred; members of the Legislature, five dollars a day for the first sixty days and after that three dollars per day. Every time they came to fix a salary, they reduced it from what it had theretofore been.

The judicial system of the constitution was inadequate even for that day. It provided for a Supreme Court and a Court of Criminal Appeals with three judges for each. There has never been a time since the convention adjourned that three judges could properly perform the functions of the Supreme Court of Texas. Under a constitutional amendment in 1891, a system of intermediate appellate courts was created, so that there are now eleven of these courts, with thirty-three appellate judges, with a court of only three members still undertaking to perform supreme appellate jurisdiction. Although the folly of such a procedure is universally apparent, yet we have been unable to shake it off even to this day.

One of the great fights of the convention came over the provisions with reference to common schools. Many citizens of Texas at that time and many of the delegates to this convention thought it was almost criminal to tax one man to help educate the children of another. There was a strong sentiment in the convention for doing nothing for public schools more than to

allow them the income from the lands that had already been set apart for the permanent school fund. General Whitfield and McCabe and their committee labored throughout the entire convention to bring in a workable plan for public free schools.

One of the strongest pleas for public education was made by Stilwell Russell of Marshall, who delivered a spirited argument for a more generous article than was then being considered. He said it was an error to suppose that the people did not want free schools; that the Democratic party had pledged itself to support public schools; that the press was unanimous in demanding them; that they could not rely for support upon the public domain; that it was a mere cipher in comparison with what was needed, and that the available fund, based on these lands, would not run the schools for more than one month a year. After weeks of discussion, an article was finally adopted providing for legislative *permission* to appropriate not more than one-fourth of the general revenue each year and to levy a poll tax of one dollar for the support of the public schools.

Questions of railroad building and railroad control came prominently before the convention, and its action with reference to these topics will be shown in the chapter devoted to the railroad history of Texas. There were already loud rumblings against extortionate and discriminatory freight rates, but at this time there were only about fifteen hundred miles of road in Texas and many railroad projects were being launched. It was suggested that it would be well enough to let the railroads largely alone just at this time, and wait until they had built in Texas as in the other states, and then regulate them. This was done, as we will see later.

The constitution, as finally adopted, provided for land subsidies to railroad companies, not to exceed sixteen sections for each mile of road constructed. This was a continuation of the old policy inaugurated in 1854. Each of the nine sections of Article 10, the railroad chapter of the constitution, may be traced to similar sections found in the Pennsylvania constitu-

tion of 1873, from which they were largely copied. These sections declared railroads to be public highways and railroad companies common carriers, and directed the Legislature to pass laws to correct abuses and prevent unjust discrimination in the rates for freight and passengers.

The question of suffrage was a very live one. Those sections of the state where there was a large black vote wanted a qualification which would eliminate the colored voter. This could only be done by an educational qualification which would bar alike illiterate white and colored voters. An effort was made to make such a limitation, but it was defeated. Then there was a determined effort to make the payment of a poll tax a prerequisite to voting. It was thought that this would help some. But it was also defeated. The charge was made that these attempts to restrict suffrage were beaten by an alliance between the Republicans and the Grangers.

Near the closing hours of the convention, quite a stir was raised by an article published by the Austin *Statesman,* charging what it called a holy alliance between these elements; that the Grangers had bargained with the Republicans to defeat a poll tax prerequisite for voting, in return for republican aid to put through granger policies and to elect E. B. Pickett United States Senator. These charges were hotly discussed and vigorously denied, and a committee appointed to investigate them, which reported that the whole matter was a joke.

The constitution, when finished, did not by any means meet the approval of the convention that formed it. On its final passage, eleven members out of sixty-four present voted against its adoption. Among those were Judge Ballinger of Galveston and Judge West of Austin. Many of the members voting for it recorded an expression of criticism of some feature of it. There had been so much criticism of the failure of the convention to adopt an efficient system of common schools that a long address was issued explaining and in defense of its educational provisions. They pointed out that some of the delegates were dis-

posed to lay a heavy tax on the people to sustain a general system of free schools. Others no less ardent in the desire for education were not willing to place this burden on the people, and their excuse was the devastation wrought by the war and the burden of a long period of military control. It was pointed out that the state had on hand a cash school fund of three million dollars and at least sixty million acres of land which would ultimately be sold for the benefit of the school fund, and that to this source the state must look for the education of its children.

Mr. Murphy, the delegate from Nueces County, vigorously attacked the action of the convention in regard to salaries provided for judges of the Supreme Court and District Court and went on record that they had been placed at such a low figure that the public would be deprived of competent judges.

Mr. Charles DeMorse signed a protest against it because it was too favorable to railroads, while Mr. Fletcher Stockdale issued an attack because the provisions of Article 10 were so strict and burdensome upon railroads that they would prevent future railroad construction. When one reads the mild generalities of Article 10, and compares it with the Texas railroad code of today, he can but wonder what Mr. Stockdale would have thought of our present code.

Only one delegate expressed any great enthusiasm for the document that had been prepared, and that was Judge Flournoy from Galveston, who declared it "to be the noblest instrument ever submitted to the verdict of a free people."

Governor Coke was prompt to espouse it, although he stated it was not perfect and subject to many criticisms that might be leveled against it, yet on the whole he thought it much better than the Constitution of 1869, which it was intended to replace.

The Galveston *News,* while finding much in it to criticise, recommended its adoption, as did the Dallas *Herald* and the *State Gazette,* while the Houston *Telegraph* and the Austin *Statesman* strongly opposed it.

The venerable Ashbel Smith, who had been defeated for delegate to the convention, came out against its adoption, and in this he was joined by many prominent persons from all over Texas.

The Democratic State Convention met in January to nominate candidates for state offices, to be voted on in the election in April, when the adoption of the constitution was also to be an issue, and its proponents undertook to force a ratification of it, which almost broke up the convention.

Col. W. L. Crawford of Marion declared that the party was responsible for the new constitution and should endorse it. Judge Ballinger opposed this and the resolution to endorse it was voted down by a majority of six hundred seventy-four to one hundred seventy-six.

The Republican Convention almost unanimously adopted resolutions denouncing it.

So the election approached, the Democratic Convention by a crushing vote refusing to endorse it, and the Republican Convention by a unanimous vote condemning it. But while the contest waged, there was one force in Texas that was solidly and quietly behind it, and this was the State Grange.

At this time its membership was probably fifty thousand, and in every section of the state they rallied to its support, with the result that it was adopted by an overwhelming majority of something like eighty thousand votes.

It has been truly said that the document was a "Granger Constitution."

Looking back over the years that have passed since it was adopted, and studying it in the light of the experience and changes of fifty years, one is impressed with the fact that its greatest defect was the severe and parsimonious salaries that were fixed for public officials. Limited as they were by the constitution, it has been impossible for the Legislature to change them, and Texas has suffered from official incompetency of an

appalling kind because of these niggardly salaries. No less than seven attempts have been made to so amend the constitution as to increase the salaries of members of the Legislature, but uniformly the people have voted down a proposed increase, all the while clamoring for better legislators. Three proposals have been voted down to increase the salaries of the governor and other executive officers.

When one reflects upon the great and unforeseen changes that have arisen during this long period, it is little short of a miracle that the state could have worked so well under a constitution formed in an era so different from that through which we have gone and in which we are now living. New questions brought about by new conditions have constantly arisen, some of them requiring changes in the organic law, but most of them requiring additional constitutional provisions to cover questions not thought of at that time. Twenty-five sessions of the Legislature have met since its adoption, and twenty-two of these have proposed amendments. Of the ninety-three amendments proposed, only forty have been accepted, and the average vote cast in passing upon them has been a little more than twenty per cent of the qualified voters.

One of the warmest controversies that was waged in the convention was over the proposal to make the payment of a poll tax a prerequisite for voting. This was defeated by a combination of the Granger and Republican vote. Twenty-five years later the people adopted an amendment, making a poll tax requirement, and forty-three years later adopted an amendment permitting women to vote.

Probably the greatest changes in the constitution have been those with reference to education. In 1883 a provision was adopted allowing an additional ad valorem school tax of twenty-five cents on the hundred dollars, which was increased to thirty-five cents in 1917, when a further provision was ingrafted allowing appropriations from the general fund in case the tax limit

was deemed insufficient. The amendment of 1883 provided that school districts might be formed to levy a special tax of twenty cents on the hundred dollars, and this was increased to fifty cents in 1907 and to one dollar in 1919.

Many efforts have been made to call a convention to adopt a new constitution, but so far all have failed.

In the first fifty years we lived under seven constitutions; in the last fifty but one.

RICHARD B. HUBBARD

CHAPTER XCII

A NEW ERA

The adoption of the Constitution of 1876 was at the beginning of a new era in Texas. The old questions of slavery and the Indian, which had been paramount for centuries, were gone, and new problems had arisen to replace them. The old names and faces of the ante-bellum days were thinned, and new and younger men had assumed leadership. It was the centennial year, and the American people were celebrating the one hundredth anniversary of Independence. Fifty years before Austin's colonies had just begun, yet our people had passed through two revolutions and lived under four governments during this half century. The Constitution was adopted in February, and became effective in April, when Governor Coke was inaugurated for his second term. In May he was chosen United States Senator over John Ireland, succeeding Morgan C. Hamilton whose retirement witnessed the passing of the last remnant of the radical regime. Richard B. Hubbard, lieutenant-governor, became chief executive when Coke took his seat in the Senate in December, 1876, and he was succeeded by Oran M. Roberts in 1878.

On the 20th day of June, 1876, in the far away City of Mexico, Antonio Lopez de Santa Anna died in his eighty-fourth year. He had played a powerful part in the destiny of Texas, which he had lost at San Jacinto forty years before. Diaz was rising to power in that turbulent land of eternal anarchy. The Grant administration, disgraced by years of ugly corruption, was coming to a close and the Republican party was repudiated at the polls in November, Tilden securing a majority of two hundred and fifty thousand over Hayes.

The population of Texas in 1876 was almost one million, two hundred thousand. At the last census in 1870 it had been eight hundred and thirty-eight thousand, and in 1880 was one million, five hundred and ninety-two thousand. Harris County, with a population of seventeen thousand, in 1870, was the largest county in the state, while Galveston, with a population of thirteen thousand, eight hundred, in 1870, and twenty-two thousand, two hundred in 1880, was the largest city. Potter County showed a population of twenty-eight in 1880.

Governor Coke in one of his early messages to the Legislature said, "Our people have been chastened by adversity," and the way they went to work to retrieve the losses of the war was heroic. They were pioneers, and lived simply and worked hard, and, putting a bloody past behind them, looked to the future.

The primitive log house was the prevailing style of architecture; the farm wagon the almost universal vehicle of conveyance; the kerosene lamp was the latest novelty and was displacing the tallow candle. The telephone had not yet arrived. There were few luxuries and the simple life of the time demanded meagre necessities. Nearly every adult man in very community had been in the Civil war or in Indian wars, and the children of the '70s were reared in an atmosphere of vanishing adventure. Pioneer preachers reached every settlement however remote, and they told in terrible tones of an avenging God and an eternal Hell where the wicked burned forever in lakes of fiery brimstone.

There is no epoch of our state history which has had a finer citizenship than that which took up the task of public and private duties at the beginning of this era. Our public men were of a high type. The eight governors from Coke to Lanham were as fine a galaxy of statesmen as can be found in American annals. These fifty years that have come and gone are the most remarkable in the matter of material progress this world has ever known.

San Antonio, 1878

Galveston Water Front in the '70s

CHAPTER XCIII

THE LOWER RIO GRANDE BORDER IN THE '70s

Our frontier line at the close of the war reached from the lower Rio Grande to El Paso, a distance of about fifteen hundred miles, and on the north and west from the Rio Grande at about Fort Clarke to Red River, a distance of more than five hundred miles, along a thin margin of white settlements which marked the border of the Indian country. Prior to the Mexican war in 1848 there had been no permanent settlements by Americans between the Nueces and the Rio Grande, which country prior to the Revolution of 1836 had been a part of the Mexican state of Tamaulipas. Many land grants had been made by the Spanish and Mexican governments to their citizens in this territory, and following the American invasion the owners of these lands had almost all fled into Mexico, except such as were willing to join the invaders.

By several statutes passed about 1850-52, the Legislature of Texas had confirmed all old land grants in this region, and their owners had returned and occupied them.

There was a gradual accretion of American herdsmen between 1850 and 1860 so that at the outbreak of the Civil war there were many large and small ranches in this territory abundantly stocked with herds, although fully nine-tenths of the population were Mexicans, most of whom had become citizens of Texas.

After the Mexican war, the United States Government established military posts along the frontier, and the Texas military authorities kept several companies of rangers there, thus affording protection from Mexican and Indian raids.

About 1859 a Mexican bandit by the name of Juan Cortina, who had been a soldier in the Mexican armies that fought against Taylor's invasion, and who resided at Matamoros, gathered about him an organized force of bandits and began a series of incursions across the border. He began his hostilities by killing the city marshal of Brownsville in July, 1859, and in September of that year organized an armed force which crossed the river and terrorized the city, after which he established himself with several hundred men and two pieces of artillery on the north bank of the river near Rio Grande City. He was only dislodged after a detachment of Federal soldiers were sent against him by Col. Robert E. Lee under the command of Major Heintzelman, who drove him across the border and crossed after him but was unable to effect Cortina's capture. Major Heintzelman said of him in his report:

"Cortina is now a great man. He has defeated the gringoes and with the Mexican flag flying in his camp numbers are flocking to his standard. When he visits Matamoros he is received as the champion of his race, as the man who would right the wrongs of the Mexicans and drive the hated Americans back to the Nueces."

In 1859 the grand jury of Cameron County filed ten felony indictments against him, five of which were for murder and most of the others for cattle theft, for the plundering of ranches on the Texas side had become a large and profitable industry.

During the Civil war and until about 1866 there was a period of comparative peace along the border. The Rio Grande became the only open outlet of the Southern Confederacy, and an immense trade was established there. The towns were full of strangers, cotton was exported in immense quantities, and vast stores of merchandise imported. Matamoros on the Mexican side became an important mart for the commerce of the world, and the whole population had an exceedingly remunerative employment. The roads were covered with wagon trains and travelers. Many of the Mexican merchants made large fortunes. A

number of them had their business in Texas and mutual profits and usefulness established a friendly feeling. From the very beginning of the war, the Confederate Government maintained a substantial military force on this border, and for a time in 1863 and 1864 Federal forces occupied the lower river region.

Meanwhile the French invasion and the establishment of Maximilian's empire drove the Liberal government north to the border, and for some time Juarez maintained headquarters at El Paso. Then followed the advance of the Liberal forces. Escebedo, the chief commander under Juarez, made up his command on the border and started from there on his campaign which closed with the capture of Maximilian and his execution at Queretaro. Escebedo's army and other Liberal forces operating against the empire absorbed and carried away all the loose population of the border just after the close of our Civil war.

Cortina had become a prominent factor in these military operations, and had risen to the rank of brigadier-general and had been governor of the State of Tamaulipas.

With the overthrow of Maximilian and the close of the Civil war, Matamoros and the lower valley country dropped back into a state of comparative quiet, and the flush times were gone.

Cortina and his associates must find some employment, and since no Mexican gentleman of that time could think of working, he returned to his old habits of banditry, which was regarded as a true gentlemanly avocation. From then on he was the central figure of a robbing population which established itself on the Mexican side of the river. His power was despotic. The lawless men who through him enjoyed the advantage of organization and political power on their own soil and unlimited license to plunder on the Texas side supported him with enthusiastic devotion, so that he soon became individually more powerful in that vicinity than either the national or state governments.

His operations against the herdsmen between the Rio Grande and the Nueces assumed a vast scale. Ranches were raided and thousands of cattle were driven across the river, where they

were slaughtered for the sustenance of the people on the Mexican side, and the market was so flooded with stolen herds that frequently the raiders would sell them at Matamoros for one dollar a head. The supply was so great that a foreign trade was established, and boats would come from Havana and other foreign ports to take away loads of cattle, beef and hides. More than half of the business houses in Matamoros were engaged in shipping hides of Texas cattle, and one boat owner testified before a Congressional committee that in a single month he carried twenty-nine hundred hides from Matamoros all bearing Texas brands. The owner of a Cuban vessel reported that he came to Matamoros for a load of hides; that he first went on the Texas side and tried to buy them, but found that he could get them much cheaper from Cortina; that Cortina furnished him with almost enough for a cargo, the hides all bearing Texas brands, and when it was found that more were needed the vessel was held while the bandits crossed the river into Texas to round up more herds to make up the deficiency.

The entire Mexican population from Comargo to the mouth of the river lived on this plunder taken from the Texas side. When the robbers would return with a drove of cattle, old men and young boys would all meet them at the river's brink to help the cattle out of the miry ground of the river bank. It was the open boast of Cortina and other bandits operating with him that the Treaty of Guadaloupe-Hidalgo was void in so far as it ceded any territory south of the Nueces River, and that they would reoccupy this entire country for Mexico.

Above Comargo in the region of Laredo a different condition prevailed. The Benavides at Laredo, who were Texas citizens and extensive herdsmen, cooperating with well-disposed people on both sides, maintained comparative order, so that the condition which obtained lower down the valley was one largely, if not entirely, due to the personality and efforts of Cortina.

The result was that the entire country between the Nueces and Rio Grande was overrun; no man's life or property was

safe. It frequently happened that these bands of marauding thieves would kill inoffensive persons traveling on the highway merely for the love of murder.

The border people were loud in their cries sent both to the State and Federal Governments for help, but the State Government was under the domination of a military regime which Governor Throckmorton declared maintained garrisons of soldiers throughout Texas where there was comparative peace, while the frontier people all along the border were filling bloody graves for want of protection.

The American Secretary of State from time to time made complaints of this situation to the Mexican government and in 1872 both governments appointed commissions to investigate the situation. The report of the commission provided by the American Government sustained the facts above recited, and many more. But the Mexican commission made an entirely different report. The substance of it was that the rumors of brigandage were exaggerated, and that whatever lawlessness prevailed was due to people from the Texas side who were carrying on this cattle stealing. This commission reported that the general condition in Texas had sunk to a very low moral state, much lower than that which prevailed throughout Mexico, and in order to prove this assertion they copied in their reports speeches made in the Texas Legislature against the government of E. J. Davis, and portions of the report of Governor Davis to the Federal Government giving the details of the crime condition in Texas. This, the Mexican committee recited, was sufficient to show that all Texas was in a state of hopeless anarchy and that the condition complained of on the border was not different from that prevailing elsewhere. In order to prove that murder and cattle theft were universal in Texas, they quoted Texas statutes prohibiting these crimes and fixing penalties therefor. The reports of the two commissions of 1872 were filed away. The American Congress in the Grant administration was so busy in reconstructing the white people of the South and protecting

the negroes from mistreatment that nothing was done to alleviate the condition on the border. Cortina and his outlaws continued to flourish.

In 1875 one of these marauding expeditions came within seven miles of Corpus Christi. Governor Coke continued loud complaints to the Federal Government, and a second Congressional committee was set up in 1875 which went over much the same ground as the former commission, gathering volumes of testimony showing the outrages that had been committed on this border from 1859 to that date. About the time this commission was in session, changes were going on in Mexico and Diaz was establishing himself. Diaz was anxious to have the recognition of the Washington Government, and when Hayes became President in 1876 he made it a condition to this recognition that Mexico should protect the Texas people against these bloody incursions. Up to this time our Federal Government had never done so. One of the heated questions discussed by the two governments pending the recognition of Diaz was the right of Texas soldiers to cross the river in pursuit of bandits. This had frequently been done since Colonel Heintzelman's time (1859), but had never been expressly authorized by the Washington government. In June, 1877, orders were given to General Ord, at San Antonio, to follow marauders across the river, overtake and punish them. About the same time a Mexican regiment near Fort Clark had crossed over to the Texas side pursuing bandits, and this matter was reported to our authorities. President Hayes, therefore, revoked the order that had been issued to Ord, instructing that American troops should not cross the border, and at once issued an angry remonstrance to the Mexican government because its troops had gone across in pursuit of outlaws.

In the negotiation for the recognition of the Diaz government, the Hayes administration demanded two things: First, better conditions on the border, and, second, a treaty right to pursue bandits across the river. While the Mexicans were perfectly willing to promise better border conditions, for promising

things has always been a great asset of the Mexican nation, yet Diaz refused to accede to the request for the right of punitive expeditions into Mexican territory. A very ugly condition prevailed for a while, and there was talk of war, but, as usual, the United States Government backed down and recognized the Diaz regime, withdrawing its request for punitive expeditions accepting a promise that border conditions would improve.

They did improve, largely because Cortina was kept in prison in Mexico, and because Diaz undertook to fulfill his promises by stationing sufficient soldiers along the river to maintain comparative peace and order. During this long period from 1859 to 1877, property worth millions was carried away by Mexican marauders, and hundreds of American citizens were murdered in that beautiful country now known as the Rio Grande Valley.

The weak, vacillating policy of this country toward Mexico and its failure to properly protect the rights of American citizens, not only on the border but elsewhere, has led the average Mexican political leader, who is often an ignorant braggart, to believe that this country is afraid of his nation and to encourage him in aggression whenever he feels like it.

CHAPTER XCIV

THE INDIAN FRONTIER IN THE '70s

At the time of the revolution in 1836 our Indian frontier lay along the old Spanish Trail from Nacogdoches to San Antonio and many powerful tribes dwelt in the country north of this line. In the early '70s the line lay far to the west along the chain of military outposts which stretched from the Rio Grande to Red River and north and west of this there were remnants of many tribes that had once lived in South and East Texas.

"Moving westward, ever westward,
So the red men drove their ponies
With the tent poles trailing after,
Out along the path to sunset.
While along the river valleys,
Came the white man close behind them,
Men of many states and races,
Bringing wives and children with them.
Followed up the wooded valleys,
Spread across the rolling prairies,
Raising homes and reaping harvests,
Making homes and building cities,
Full of riches and of trouble."

The Comanche, the most formidable of the tribes of our northwestern frontier at the close of the Civil war, was not essentially different from his ancestor who ruled these regions in the days of Spanish supremacy. They had been thinned by war

and disease, buffalo ranges were giving out, and they often suffered from want. General Marcy, who was on the frontier at intervals for many years, said of them:

"Probably no people on the face of the earth are more ambitious of martial fame than the plains Indian. The attainment of such a reputation is the paramount and absorbing topic of their lives. A young man is never worthy to sit in council until he has met an enemy in battle and shows scalps in his belt."

One of the chief elements in the education of the young brave was the art of horse stealing and depredations into the settlements for horses and scalps and captives to be held for ransom. This was as much a part of the Indian's purpose in life as the chase of the buffalo. During the war the Confederate government tried to keep up a line of defense to take the place of the Federal forces which had been maintained since the Mexican war, but pressure elsewhere had taken most of these men to other battlefields, and when the Confederacy collapsed the people were unable to defend themselves from Indian attacks, and depredations became more numerous and of greater magnitude. Throughout 1865 and 1866, the whole frontier from north to south was in constant terror and became almost depopulated. Both Governor Hamilton and Governor Throckmorton were besieged with petitions for troops, but while Sheridan was the military overlord in Texas he refused these troops on the ground that they were needed in interior garrisons for the protection of the negroes.

In 1867, after the doughty Sheridan had scared the French out of Mexico and kicked Throckmorton out of the governorship, he was sent to the Missouri-Kansas frontier, for at that time the outposts of the Federal Government reached all the way from Brownsville to Canada. His new command included the Indian territory, and he moved among the many tribes north of Red River who were repeatedly making incursions over our border and carrying their depredations all the way into Mexico. He reported that the Indians of the central plains were amply fed

MOVING WESTWARD, EVER WESTWARD

by buffalo which were yet plentiful there. It was estimated that there were on these ranges yet six million bison to feed no more than six thousand warriors and these well-fed Indians had so many horses that each brave could boast of twenty mounts.

During 1868 he had much war with these opulent tribes and punished them severely, and in December was in the Wichita Mountains where he located a permanent military camp which, in honor of General Sill, an old classmate, he named Fort Sill. He forcibly made the Comanches and Kiowas and Apaches locate in this region, and planned to keep them under surveillance and military control. The Federal Government established an agency here, and these Indians were fed, furnished arms and, being well mounted, were able to steal away for their raids into Texas, and most of the depredations committed on the northwestern frontier during the next five or six years were done by these wards of the Government.

During this time the Federal Government had re-established its line of forts from the mouth of the Rio Grande to Fort Clark, a distance of four hundred and forty-five miles, in which space Forts Brown, Ringgold Barracks, McIntosh, Duncan and Clark were maintained, each with a small garrison. In addition to this, a line of posts was established from Fort Clark across the plains country to Fort Sill, including Fort McCavett, Fort Concho, Fort Griffin and Fort Richardson, a distance of five hundred and fifty miles, and this line of outposts was the frontier of the '70s. There was a western line of outposts along the mail route to El Paso, which ran from Concho by Forts Stockton, Davis and Quitman to El Paso, a distance of four hundred and ninety miles.

At this time many of the revolting tribes had established themselves permanently in northern Mexico, and were on more or less friendly terms with their neighbors. From this vantage point, they made continual depredations across the river into Texas. A lieutenant who was stationed at Fort Clark during these years described their incursions:

"They cross the Rio Grande in parties of no more than thirty or forty. They invariably come on foot, and when they reach this side they hide during the day time or stay on the top of the highest mountain peaks, and when the moon is nearly or quite full they come down. I have known them to gather two hundred horses in a single night. Then they light out, driving day and night, across the river. They have no saddles, but will kill cattle and take a piece of rawhide and put a string of it over the head of a horse, pass a piece of wood through the horse's mouth for a bit, using a strip of rawhide for a bridle rein. Mounted in this way, I have known them to travel as far as eighty miles in a day and night."

The treaty under which the Indians were located on reservations across Red River provided for the cessation of hostilities on the settlements of Texas, and, as an inducement to these marauders to cease their depredations, the Government promised to appropriate seventy-five thousand dollars annually for a period of thirty years "for the judicious purchase of such articles as may seem proper to the condition and necessities of the Indians." But the Indians never kept this treaty any part of the time.

The agent of the Wichita reservation reported in 1869 that the Comanches were depredating in Texas, and that the excuse they gave for violating their treaty was that they had never ceded away Texas, and that it was their original home. This agent stated that the Comanches had gone into Texas on no less than forty raids since they had made their treaty, and they had killed forty or fifty people, captured as many women and children, and stolen thousands of horses. He further called attention to the fact that at the very time he was writing several war parties were ravaging down in Texas.

Although on the surface the Federal Government seems to have been very liberal with these Indians, yet they had their grievances. It was published in a Texas paper as early as October, 1867, that one D. A. Butterfield, at the Indian agency, was

selling the Apaches coats which cost him one dollar for eleven dollars; blankets for which he gave thirteen dollars for twenty-three dollars, and it was also published that Butterfield had made an agreement with the Kiowas to rob his train in order that he might put in a claim against the government for losses, and that the agreement was carried out. At another time it was reported that dishonest traders were selling Indians blankets worth four dollars for twenty-two dollars.

Not only did the traders thus impose on the Indians, but they deliberately encouraged them to raid on the frontier, in order that they might sell them guns and ammunition and buy from them their stolen animals. One settler, writing from Fort Griffin in 1859, stated that the Indians were in an organization with thieves whose sole object was to make money by the traffic in stolen animals; that certain white persons would always arrive at the trading posts just in time to meet the Indians after their return from incursions into Texas with stolen horses and other plunder.

Major-General Hazen, who was stationed in this region during this time, reported to the Federal Government that the purchase of captives and plunder had been the principal incentive to the many crimes committed by the Indians, and Sheridan, who was in command here in 1867, observed that "the whole Indian management is a notorious fraud."

When these disgraceful conditions were brought to the attention of General Sherman, he immediately gave orders to circumscribe the activities of the traders and to forbid them to sell arms and ammunition to the savages. The sale to them of firearms had been excused on the ground that it was necessary for them to have guns for their buffalo hunts, although it was well known that the Comanche preferred to hunt buffalo with bow and arrow. Under these conditions, the Indians became bolder in carrying out their raids and began to show an insolent attitude toward the military authorities. They would raid during

the summer and when winter came would retreat to their homes and glory in the scalps taken and the horrible debasement of the unfortunate women whom they held as prisoners.

The agent of the Wichita reservation in 1869 wrote:

"But few can know what these poor unfortunate people have suffered from the Indians, that we are feeding and clothing, during the last ten years and are suffering now."

CHAPTER XCV

THE VISIT OF GENERAL WILLIAM TECUMSEH SHERMAN

The lamentations of the border people were at last heard in Washington, and in April, 1871, General Sherman came to San Antonio and on May 2d, accompanied by General Marcy, left with an escort of seventeen men, going by way of the German village of Boerne which contained a dozen houses. Here a discharged soldier kept a school, and the school master went constantly armed to protect himself against Indians. On May 4th they passed Fredericksburg, a German village of one thousand people. The next day they met a detachment of negro infantry who were on scout duty. Two days later they halted at Menardville and visited the ruins of the San Saba missions destroyed by the Comanches in March, 1758. Ten miles further on they met some citizens who reported an Indian raid that day and in the evening they camped at Fort McKavett on the San Saba. Passing on by Kickapoo Springs, Fort Concho and Phantom Hill, they reached Fort Belknap on May 15th.

General Marcy's journal relates:

"We crossed immense herds of cattle today, which are allowed to run wild upon the prairies, and they multiply very rapidly. The only attention the owners give them is to brand the calves and occasionally go out to see where they range. The remains of several ranches were observed, the occupants of which have either been killed or driven off to the more dense settlements, by the Indians. Indeed, this rich and beautiful section does not contain, today (May 17, 1871), as many white people as it did when I visited it eighteen years ago, and if the In-

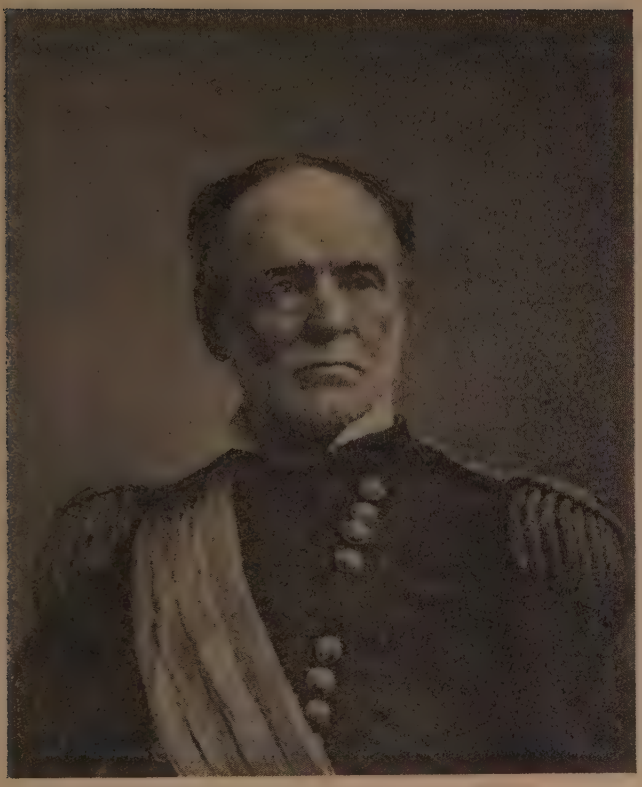
dian marauders are not punished, the whole country seems to be in a fair way of being totally depopulated.

"May 18th, 1871—This morning five teamsters, who, with seven others, had been with a mule wagon train en route to Fort Griffin (Capt. Henry Warren's) with corn for the post, were attacked on the open prairie, about ten miles east of Salt Creek, by 100 Indians, and seven of the teamsters were killed and one wounded. General Sherman immediately ordered Colonel McKenzie to take a force of 150 cavalry, with thirty days' rations on pack mules, and pursue and chastise the marauders."

The very spot on which these men were so brutally murdered, was passed over the previous day by General Sherman, General Marcy and party, and had Satanta, Big Tree, and their force attacked the General of the army, he, and those who accompanied him, or some of them, at least, might have met the same fate as the teamsters. The route over which they had ridden from San Antonio had been traversed by Spanish troopers a hundred and twenty years before, and in 1779 DeMezieres, Indian Agent and Diplomat of the Spanish Government, had camped on the San Gabriel, where he wrote a letter to de Croix, the Commandant of the Eastern Internal Provinces.

The grandeur of early autumn filled the land and fired the imagination of this distinguished son-in-law of St. Denis, as he wrote:

"Few rivers can compare with the San Xavier. Obedient, its waters could irrigate the surrounding plain. Then industrious hands would grind the grain after having increased its yield. Incredible herds of cattle and horses will graze on its banks, and for variety there will be the buffalo. There are thyme, lavender, sage, and other aromatic plants for sheep and goats. Fragrant flowers, bright adornment of the fields, will delight the bee. Hogs will fatten on the acorn, oil will be obtained from nuts. The woods and quarries will yield for building homes which will withstand the attacks of time, and be en-



General William Tecumseh Sherman

joyed by the grandchildren of the builders. I am unable to refrain from rapture and ecstasy."

And now after a hundred years his ecstatic vision was about to be realized, but

> "Not by Mexicans and Spaniards,
> Indolent and proud hidalgos
> Dwelling in their haciendas,
> While their fickle revolutions
> Change the rulers, not the people."

We are the children and grandchildren of DeMeziere's autumn vision.

On the 19th Sherman remained at Fort Richardson and received a delegation of citizens from Jack and Parker counties who revealed to him the real conditions in Texas and convinced him of the folly of the policy then being adopted by the military. They informed him that unless some drastic step was taken at once, the whole of the western part of the state would be depopulated. General Sherman listened attentively and grasped the entire situation. He keenly felt the humiliation of the Indian policy of the United States, acknowledged its injustice, and promised to do all in his power to remedy the condition of affairs then existing. The deputation requested authority to go to Fort Sill to recover stock that had been stolen from them by the Indians, when General Sherman invited them to go with him the following day and identify their animals.

During the day Colonel Mackeenzie reported the information concerning the murder of the teamsters in Capt. Henry Warren's train was correct—that their bodies were found much mutilated, and one of the Elliott brothers "burned to a cinder." He was chained between the wheels of a wagon and a fire built under him.

On the following day Sherman left Fort Richardson and arrived at Fort Sill on the 23rd. Immediately upon his arrival he

asked Tatum, the Indian agent, if he knew of any Indians having recently left the reservation, at the same time telling Tatum of the Salt Creek massacre. Tatum replied that he did not know of any Indians having left the reservation, but that he would make inquiry concerning the matter. A few hours later, the chiefs Satanta, Satank, Big Tree and Eagle Heart rode to Tatum's office and he interrogated them about the raid. Satanta immediately admitted that he had led the raid into Texas and boasted of the killing of the teamsters and the carrying away of the mules and other property. He said that he led the raid in person, and that any other chief claiming the credit for it was a liar. He gave as a reason for leading his braves into Texas that a large amount of their annuity goods had been stolen; that arms and ammunition had been refused them; that the white people were preparing to build a railway through the country, which could not be allowed. Turning to the other three chiefs standing silently by, Satanta had them corroborate what he had said. Tatum immediately related this conversation to General Sherman, who asked that the Indian chiefs be sent to him.

When they arrived, Sherman questioned them concerning the raid into Texas. As in his conversation with Tatum, Satanta readily admitted that he had led the raid and that he had blown the bugle ordering the attack. General Sherman then pointed out to him that such a raid by a party of one hundred and fifty Indians against the twelve teamsters who did not even know how to fight was a very cowardly thing to do, and that if the Indians wanted a fight his soldiers stood ready at any time to accommodate them. He told Satanta that on account of this breach of faith on his part he and the other three chiefs associated with him in the raid were to be placed under arrest and sent back to Texas to be tried for murder. Satanta then sought to deny what he had just said concerning his part in the raid; he said that, although he was in the party that went into Texas, he had taken no part in the fight and had gone along to look after

the wounded in another party of braves that had gone to Texas and come in contact with a band of settlers.

While the conversation was in progress, Lone Wolf, one of the Kiowa chiefs, rode up, dismounted and approached the house in which General Sherman was talking to the chiefs. He defiantly took a blanket from his shoulder and tied it about his waist, then handed a bow and quiver of arrows to one of his warriors and a gun to another. He seated himself, cocked his gun, and laid it across his lap. The detachment of soldiers standing by immediately leveled their rifles on the chiefs and for a moment trouble seemed imminent.

Eagle Heart managed to slip away, but Satanta, Satank and Big Tree were arrested. General Sherman directed General MacKenzie to take them to Jacksboro, and turn them over to civil authorities there. On June 8th, General MacKenzie started, carrying his manacled prisoners in wagons.

Satank bitterly complained that he was a chief and not a dog to be treated in this manner, and that he could never live over this indignity. Just before they started he called a Caddo Indian boy to his side, and said:

"I wish to send a message by you to my people. Tell them that I am dead on the side of the road; that I died the first day out, and that my bones will be lying on the side of the road. I wish my people to gather them up and take them home."

As they proceeded, Satank began a loud harangue to the other prisoners in the wagon, telling them he was a chief and a warrior, too old to be treated in this way, then, pointing to a tree where the road descended to cross a small stream about a mile away, he said:

"I shall never go beyond that tree."

Then, lifting his voice he sang the death song:

"Oh, Sun, you remain forever, but we Kaitsenko must die. Oh, Earth, you remain forever, but we Kaitsenko must die."

Having finished his song, he suddenly wrenched the handcuffs from his wrists, leaped on one of the guards in the wagon with

him and began to slash at him with a knife which he had managed to conceal under his blanket. The soldier leaped from the wagon, leaving his gun behind him. Satank seized the rifle and sought to load it but was shot and killed by other members of the guard. They threw his body by the roadside, and members of his tribe came and found it, as he had told the Caddo boy.

Satank had been a chief of the Kiowas for more than twenty years and had come in contact with Federal troops all along the border so often that he was well known to them and had become a national character. On one occasion he decided to make friendly overtures to the supply trains along the Santa Fe Trail, in the hope of being fed, and procured a scalawag bootlegger named Peacock to write him a letter which he could show the commandants of these trains and which would certify him as the friend of the white man. So Peacock wrote:

"The bearer of this is Satank. He is the biggest liar, beggar and thief on the plains; what he can't beg of you he will steal, kick him out, for he is a lazy good for nothing Indian."

Armed with this certificate, which he could not read, he planned an easy season in which he could eat off the supply trains. He duly presented it to a passing caravan and was severely beaten with an ox whip. After several similar experiences, it dawned on him that there was something wrong with his certificate of character, and he procured a white trader to read it to him. When he learned its real import, he gathered a bunch of braves and visited Peacock's place, killing and scalping him, and reducing his house to ashes.

After Satank's death the slow procession moved on across the one hundred and twenty miles to Jacksboro and its advent at Fort Richardson has been described by Lieutenant Carter:

"It was a bright day in June when we arrived with the prisoners, closely guarded by the bronzed, weather beaten fourth cavalry. As the column halted every eye was on Satanta. He was over six feet and mounted on a small pony seemed taller. He was stark naked but for a breech clout and beaded moccasins.

His coarse jet black hair powdered with dust hung tangled about his neck except a single scalp lock with an eagle feather to adorn it. The muscles stood out on his giant frame like knots and his form was proud and erect in the saddle while his motionless face and body gave him the appearance of a bronzed statue. Nothing but his intensely black glittering eyes betokened any life in his carved figure. Every feature of his face spoke disdain for the curious crowd that gathered about him. His feet were lashed with a raw-hide lariat under the pony's belly, and his hands were tied. Disarmed and helpless, he was a picture of fallen savage greatness."

CHAPTER XCVI

THE TRIAL AT JACKSBORO

A grand jury was convened, and Satanta and Big Tree were indicted for murder. The trial in July, 1871, was one of the most interesting and spectacular that has ever occurred in the annals of Texas, and its result had a far-reaching effect, as we shall see.

The presiding judge, Charles Soward, was a man under forty, and a lawyer of conspicuous ability. Samuel W. T. Lanham, the district attorney, was a young and forceful character who was then at the beginning of a long and useful career in Texas. The court appointed Thomas Ball and Joe Woolfork of the Weatherford bar to represent the defendants.

Thomas Williams, the foreman of the jury that was impaneled, was a frontier citizen and a brother of the Governor of Indiana.

The principal witnesses against the defendants were Gen. R. S. MacKenzie, Tatum, the Indian agent who had heard their statements at Fort Sill, and Brezeal, the teamster who had escaped from the Salt Creek massacre.

There was a vast concourse of frontier folk gathered to witness the trial. The district attorney thus described the audience:

"This vast collection of our border people, this sea of faces, including distinguished gentlemen, civic and military, who have come hither to witness the triumph of law and justice over barbarism; the matron and the maiden, the gray haired sire and the immature lad who have been attracted to this tribunal by this unusual case, all conspire to surround it with thrilling and extraordinary interest."

Lieutenant Carter, writing for the *Youth's Companion*, some years later gives some touches of local color to the scene:

"Under a strong guard accompanied by his counsel and an interpreter the chief, clanking his chain, walked to the little log courthouse on the public square. The jury had been impaneled and the District Attorney bustled and flourished around. The whole country armed to the teeth crowded the courthouse and stood outside listening through the open windows. The chief's attorneys made a plea for him, and referred to the wrongs the red man had suffered. How he had been cheated and dispoiled of his lands and driven westward until it seemed there was no limit to the greed of the white man. They excused his crime as just retaliation for centuries of wrong. The jurors sat on log benches, each in his shirt sleeves and with shooting irons strapped to his hip."

Lieutenant Carter says that "the district attorney was really quite an able little fellow and grew eloquent in painting the horrors of the Salt Creek murder."

A fragment of his address has been preserved:

"Satanta, the veteran council chief of the Kiowas—the orator—the diplomat—the counselor of his tribe—the pulse of his race: Big Tree, the young war chief, who leads in the thickest of the fight, and follows no one in the chase—the mighty warrior athlete, with the speed of the deer and the eye of the eagle, are before this bar in the charge of the law! So they would be described by Indian admirers, who live in more secured and favored lands, remote from the frontier—where 'distance lends enchantment' to the imagination—where the story of Pocohantas and the speech of Logan, the Mingo, are read, and the dread sound of the warwhoop is not heard. We who see them today, disrobed of all their fancied graces exposed in the light of reality, behold them through far different lenses! We recognize in Satanta the arch fiend of treachery and blood, the cunning Cataline—the promoter of strife—the breaker of treaties signed by his own hand—the inciter of his fellows to rapine and murder

—the artful dealer in bravado while in the powwow, and the most abject coward in the field, as well as the most canting and double-tongued hypocrite where detected and overcome! In Big Tree we perceive the tiger-demon who tasted blood and loved it as his own food—who stops at no crime how black soever—who is swift at every species of ferocity and pities not at any sight of agony or death—he can scalp, burn, torture, mangle and deface his victims, with all the superlatives of cruelty, and have no feeling of sympathy or remorse. They are both hideous and loathsome in appearance, and we look in vain to see, in them, anything to be admired or even endured. Still, these rough 'sons of the wood' have been commisserated; the measures of the poet and the pen of romance have been invoked to grace the 'melancholy history' of the red man. Powerful legislative influences have been brought to bear to procure for them annuities, reservations and supplies. Federal munificence has fostered and nourished them, fed and clothed them; from their strongholds of protection they have come down upon us 'like wolves on the fold'; treaties have been solemnly made with them, wherein they have been considered with all the formalities of *quasi* nationalities; immense financial 'rings' have had their origin in, and draw their vitality from, the 'Indian question'; unblushing corruption has stalked abroad, created and kept alive through

> " '——— the *poor* Indian, whose untutored mind,
> Sees God in clouds, or hears him in the wind.'

"Mistaken sympathy of these vile creatures has kindled the flames around the cabin of the pioneer and despoiled him of his hard earnings, murdered and scalped our people, and carried off our women into captivity worse than death. For many years, predatory and numerous bands of these 'pets of the government' have waged the most relentless and heartrending warfare upon our frontier, stealing our property and killing our citizens. We have cried aloud for help; as segments of the grand aggre-

gate of the country we have begged for relief; deaf ears have been turned to our cries, and the story of our wrongs has been discredited. Had it not been for Gen. W. T. Sherman and his most opportune journey through this section—his personal observation of the *debris* of this scene of slaughter, the ensanguined corpses of the murdered teamsters, and the entire evidences of this dire tragedy, it may well be doubted whether these brutes in human shape would ever have been brought to trial; for it is a fact, well known in Texas, that stolen property has been traced to the very doors of the reservation and there identified by our people, to no purpose. We are greatly indebted to the military arm of the government for kindly offices and cooperation in procuring the arrest and transference of the defendants. If the entire management of the Indian question were submitted to that gallant and distinguished army officer (General Mackenzie) who graces this occasion with his dignified presence, our frontier would soon enjoy immunity from these marauders."

Satanta (White Bear) had a long record and, like Satank, had made a vicious reputation along the Santa Fe Trail and wherever he had come in contact with our soldiers and traders. He prided himself on his oratory and was known as the orator of the plains. In 1866 General Hancock gave him a major-general's uniform and from some source he had gotten an ambulance to which he attached a fine team of stolen mules, and when not on the war path he drove over the plains in state. When President Johnson's Indian Commission was in the West in 1867 it held long conferences with the various tribes and in one of these sessions at Fort Dodge, Satanta was the spokesman. He declared he had no desire to kill the white settlers, but that his people had great grievances; that the white hunters were wantonly killing their buffalo whose carcasses were left to rot, while the Indian killed only to eat. That they were burning the grass so that the Indians' horses and buffalo would starve. That they were destroying all timber along the streams, while the Indian

was careful to preserve it. Holding up a green switch, he said dramatically:

"I picked this up on a trail the other day, and it made my heart bleed to think that this little branch torn and thrown away would have made a fine tree that would have sheltered our children and grandchildren."

These lofty sentiments were duly recorded and much applauded. After the day's session was over, the old rogue held a powwow with some congenial spirits down at the settlers' store where he was overheard to say:

"Now, didn't I give it to these white men who came from the Great Father? I made tears in their eyes. The switch I saw on the trail made me glad. I knew some tenderfoot had dropped it for a plainsman would use a quirt. So I said to my warriors, 'Come on, we'll get him.' "

But he was now to try his oratory in dead earnest where his life was at stake. One would hope that in this emergency he would have faced his accusers with heroic stoicism and as his attorneys had done recount the centuries of wrong heaped on his people. He could have told of the murder of the reservation Indians on the Keechie not twenty miles away by white men in 1859. But he cowed, lied and dissembled to save his life. Through an interpreter, he addressed the court and jury. One of his first inquiries was to know if any word had come from the President, for he hoped to the last to be saved by executive clemency which was indeed freely extended him as we shall see.

"I cannot speak with these things upon my wrists (holding up his arms to show the iron bracelets). I am a squaw. Has anything been heard from the Great Father? I have never been so near the Tehannas (Texans) before. I look around me and see your braves, squaws and papooses, and I have said in my heart, if I ever get back to my people I will never make war upon you. I have always been the friend of the white man, ever since I was so high (indicating by sign the height of a boy). My

tribe have taunted me and called me a squaw because I have been the friend of the Tehannas. I am suffering now for the crimes of bad Indians—of Satank and Lone Wolf and Kicking Bird and Big Bow and Fast Bear and Eagle Heart, and if you will let me go I will kill the three latter with my own hand. I did not kill the Tehannas. I came down to Pease River as a big medicine man to doctor the wounds of the braves. I am a big chief among my people and have great influence among the warriors of my tribe—they know my voice and will hear my word. If you will let me go back to my people I will withdraw my warriors from Tehanna. I will take them all across the Red River and that shall be the line between us and the pale-faces. I will wash out the spots of blood and make it a white land and there shall be peace, and the Tehannas may plow and drive their oxen to the banks of the river—but if you kill me it will be like a spark in the prairie—make big fire—burn heap!"

SATANTA IN PRISON

CHAPTER XCVII

THE END OF INDIAN DEPREDATIONS ON OUR FRONTIERS

No sooner had the sentence of death been pronounced on the prisoners than Enoch Hoag, superintendent of Indian affairs, began urging the President of the United States to intervene and save Satanta and Big Tree from the gallows, giving as his reason that if they were put to death war would undoubtedly follow, which would not only devastate Kansas but the frontiers of Texas as well. Tatum, the agent at the Wichita reserve, being a Quaker, was opposed to the death sentence, and wrote the district attorney admonishing that one of the traits of the savage was to seek revenge and that if the death sentence were carried out the Kiowa and Comanche would wage war on the Texas frontier. He urged that it would be a sterner punishment for these chiefs to imprison them for life than to have them executed. Judge Soward concurred in this view, and asked Governor Davis to commute their sentence to life imprisonment, which he did. Under guard furnished by General Reynolds, they were carried to the state penitentiary at Huntsville. Their imprisonment seemingly restrained the Indians for a time from raiding on the Texas frontier.

The following year the Cheyenne, Arappahoe, Comanche, Kiowa and Apache had become so menacing in their war operations that the Indian agents urged them to select a delegation of their chiefs to go to Washington for a conference with the President. They reluctantly consented, upon condition that their imprisoned chiefs should be allowed to meet and confer with them at some point along the way. The chiefs were taken

from Huntsville to St. Louis, where they were allowed to see and confer with their tribesmen, after which they were returned to the penitentiary. The delegation of chiefs went on their way to Washington, where they conferred with the Commissioner of Indian Affairs, who promised them that, if they would cease their warfare on the settlements, their captive chiefs should be released, and at once a crusade was begun for their pardon.

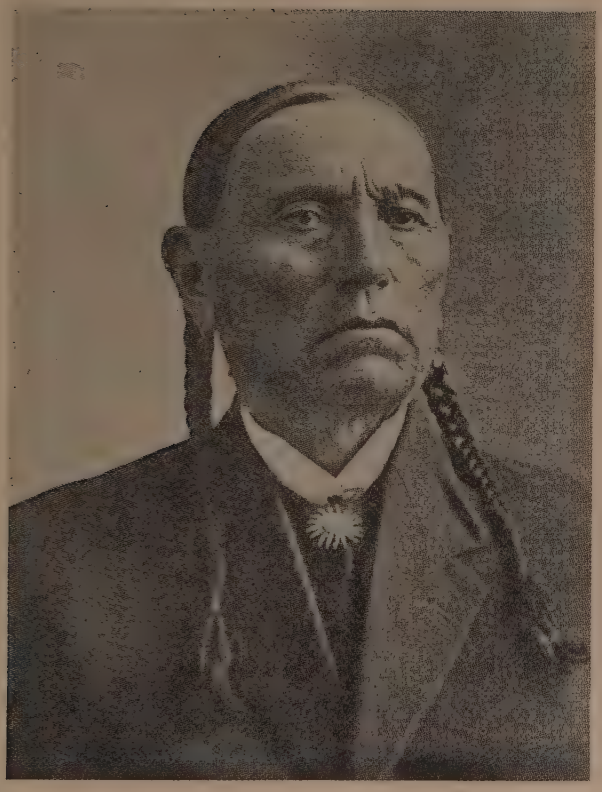
It became known that the Secretary of the Interior had committed himself to this agreement, and General Sherman, hearing of it, wrote:

"I hope that when Satanta is released and he is actually killed at the head of a raiding party off his reservation as certain as next year comes, that you will simply decree that the Kiowas are outlawed and their property confiscated and their valuable reservation restored to the public domain. I believe Satanta has done fifty murders. Indeed, my idea is that the Indian by nature can't help it."

The proposal to release the prisoners met violent opposition in Texas, but was loudly encouraged by people in the North and East, and in 1873 a conference was held at Fort Sill between the Indian agents and Governor Davis, where the governor promised to free the captive chiefs on condition that if they were ever caught raiding again they should be returned to the penitentiary at Huntsville. These conditions were readily agreed to by the representatives of the Government and of the Indian tribes, and in October, 1873, Satanta and Big Tree were released.

This caused a bitter storm of protest from all over Texas, not only from the frontier people but the military authorities as well. In February General Sherman wrote Governor Davis:

"In making the tour of your frontier with a small escort I ran the risk of my life, and I said to the military commander what I now say to you—that I will not again voluntarily assume that risk at the interest of your frontier. I believe Satanta and Big Tree will have their revenge, if they have not already had it,



QUANAH PARKER, COMANCHE CHIEF

and if they are to take scalps I hope that yours is the first that will be taken."

The release of the prisoners had the very bad effect that the military authorities along the frontier prophesied. During the two years they were in confinement there was comparative peace. The year following more than sixty persons were killed, wounded and captured.

In 1873 General Reynolds, commanding the Department of Texas, wrote:

"For several years the Comanches and Cheyenne have not ceased to raid in Texas, and so long as Satanta and Big Tree were in the state penitentiary they refrained from raids, but after their release there is but little doubt that the Kiowas have joined the Comanches, and they continue their forays of murder and plunder in Texas."

The year following General Augur, who succeeded General Reynolds, wrote:

"These outrages were committed by Indians belonging to the Fort Sill reservation, where they are fed by the Government and officially regarded as friendly, and their pursuit and punishment within their reservations prohibited."

The increase in depredations from across Red River stirred the military authorities to a last vigorous campaign for summary punishments to the savages. A sufficient force was provided, and orders were given to hunt them out and chastise them wherever found. General MacKenzie with one column of eight companies of cavalry, and five of infantry, and thirty Indian scouts, was sent to scour the country along the fresh water fork of the Brazos, drawing his supplies from Fort Griffin, a distance of 120 miles. Lieutenant-Colonel Davidson, with six companies of cavalry, three companies of infantry, and forty-four Indian scouts, was sent west from Fort Sill, drawing his supplies from that post. Lieutenant-Colonel Buell, with another column of six companies of cavalry, two of infantry and an

equipment of scouts, located his camp where Wanderers Creek empties into Red River, and campaigned from that point. General Nelson A. Miles, with eight companies of the Sixth Cavalry, and four companies of infantry, was sent to cooperate with the above forces, and Major Price marched from Fort Union along the Canadian River as far as Antelope Hills.

As a result of these several converging military expeditions, the Indians were severely punished. They were given no rest, day or night, summer or winter. The soldiers followed them up to their hunting grounds, and by the middle of 1874 many of the tribes surrendered to escape the vengeance of the soldiers.

Late in the year Satanta and Big Tree and several other chiefs came with a large number of their people to the Cheyenne agency at Darlington, and surrendered, stating that they were tired of war, but did not like Fort Sill. Satanta, who was known to have broken his parole, was arrested, and in November of that year returned to the penitentiary at Huntsville, but Big Tree escaped and was never recaptured. Satanta was so depressed at being returned to prison that he made a very sullen prisoner, and in October, 1876, committed suicide by throwing himself from an upper story window.

The campaign which began in 1874 was continued without abatement until in February of the next year when the remnant of the tribes that had not surrendered came in and submitted to authority.

The experience of the imprisonment of the chiefs in the Texas penitentiary had proven so salutary that the military authorities selected seventy-five of the ring leaders of the late disturbances and sent them to military prisons in Florida.

The arrest, conviction and imprisonment of Satanta and Big Tree, followed by the vigorous campaigns of 1874 and 1875 broke the spirit of the warring tribes and ended Indian depredations on the Texas frontier.

Here we witness the close of a conflict that raged for nearly two centuries for the mastery of Texas. It began when LaSalle's

fort and followers were destroyed on Matagorda Bay in the seventeenth century and went on and on during the days of thirty viceroys who strove with soldier and priest to extend Spanish dominion over Texas. Fifty years of border warfare had raged since Austin's colonists came.

"Yet they never failed or faltered
Till their toil was crowned with triumph
And the country of the Tejas
Was the fertile land of Texas."

Squads of surveying parties now began to cover all west and northwest Texas locating land grants for homesteaders and railroads. On the heels of the land locators emigrant trains moved forward and the settlements were no longer confined to the shadow of the forts.

The necessity for the garrisons was soon gone and in 1878 the last of the outposts which had been established on this frontier at the close of the Mexican war thirty years before was abandoned. The slavery issue was settled, the Indian question gone, and our people turned to face a new era with new problems still full of infinite perplexities.

CHAPTER XCVIII

THE OLD CATTLE TRAILS

In the ante-bellum days the Southern cottonplanter was the aristocrat of the land, and the old plantation with its slaves and prodigal abundance gave a life full of romantic interest to an era that passed forever with the fall of the Southern Confederacy. The slaves were now free, and the planters were for the most part bankrupt. The opulent herdsmen, cattle king, cattle baron as he came to be called, was a product of the new era made by new conditions which followed the war. Probably no phase of American life has held as much interest for the world at large as the epoch of the cattleman and the cowboy. Although the big ranches are mostly gone and the cowboy fast becoming a tradition, yet today they furnish the largest theme for current literature. The short story writer, the novelist, and the screen are very largely devoted to western life, stories of the times of the big herds, and frontier characters, and the whole is gilded with a romance that appeals to the imagination and holds the interest of succeeding generations. The vast plains of south and southwest Texas swarmed with millions of cattle at the close of the war, when unattended herds ran wild, on ample ranges in the equable climate that had been the winter grazing ground of the buffalo for untold ages.

Although the cattle industry had been a more or less thriving one since Austin's colonists first came, it had never had the advantage of ample markets, and the easy supply always overran the limited demand. Cattlemen along the coast often shipped beasts from Indianola and other gulf ports to New Orleans and sometimes they were sent up the Mississippi River, but no de-

pendable market for Texas cattle had ever been found. At the close of the war there was a shortage of cattle in the North and East, and this was also true of the western states into which railways were being rapidly extended in the late '60s.

Just after the close of the war, slaughtering industries were opened at several places along the coast. One at Columbia on the Brazos, financed by B. L. Mann & Company of New Orleans, and operated by W. C. Wagley, did a big business for several years. Herds would be driven from all along the coast country, from as far west as Victoria and from one hundred miles to the north, and would be slaughtered at Columbia for their hides and tallow which were sent to market by sea. The bandit Cortina resumed his cattle operations at Matamoros, and furnished foreign trade with cattle that he stole in Texas and delivered to boats in the mouth of the river.

In March, 1866, George C. Duffield of Van Buren County, Iowa, came to Texas with the bold idea of buying and driving a herd of cattle all the way to Iowa. He went into the country west of Austin and purchased one thousand cattle at the substantial price of twelve dollars per head, and started with them on the long journey. Other drovers joined him, and before they reached Red River they had several thousand. Leaving the San Saba in April, Duffield drove through Coryell County, crossed the Bosque at Meridian, then on through Johnson County into Tarrant, crossing the Trinity in that county. In his log of this pioneer enterprise he mentions passing Elizabethtown, Denton, Pilot Point, and Sherman, and that he reached Red River on the 29th of May, six weeks after leaving the San Saba. He describes crossing over Red River:

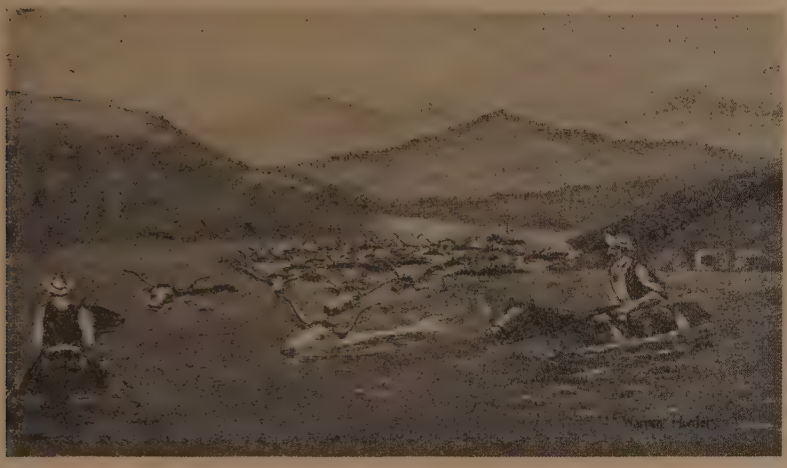
"Swimming cattle is the order. We worked all day in the river and at dusk got the last beef over."

He kept on through the Indian Territory, going towards Baxter Springs in the southeastern portion of Kansas, crossing the Canadian just above the confluence of its north and south forks, and passing the present site of Muskogee and going through

Kansas and Nebraska, reached Burlington, Iowa, in October. A hundred head of the herd were sent to his ranch, and the remainder were shipped from Burlington by rail to Chicago. He accompanied the shipment and wrote in his diary:

"November 1st: Shipped cattle from Burlington to Chicago.

"November 2nd: Spent day at Union stock yard and in evening drove them to a slaughter house to have them packed."



SWIMMING THE NORTH PLATTE RIVER

This is probably the first consignment of Texas cattle that ever reached Chicago and marks the beginning of a vast enterprise that has extended through the intervening sixty years.

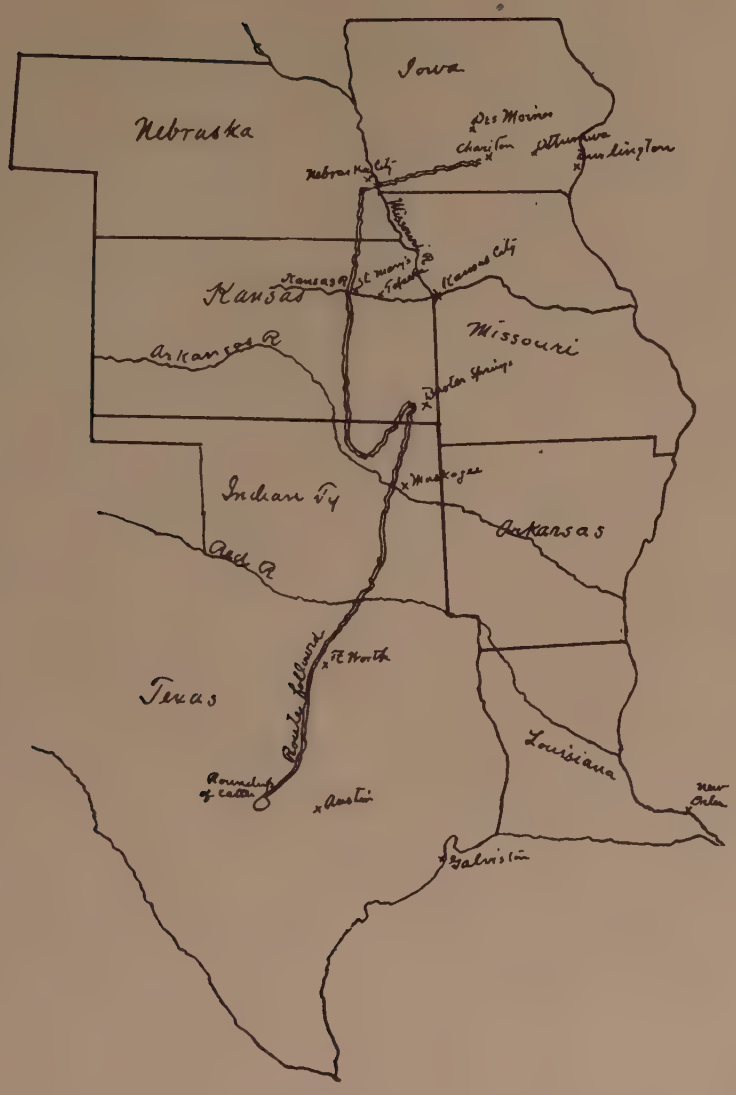
Duffield's diary is full of the most harrowing experiences. One reading it is impressed with the idea that he rode most of the way from the San Saba to Burlington through rainstorms and across swollen streams, and that his herd stampeded almost every day. This diary was printed in the annals of Iowa by the Historical Society of that state in 1924, and is accompanied by a map which shows the way he went. He makes no mention of having followed any road or trail through Texas or the Indian Territory, and his trip evidently antedated the Chisholm Trail.

Jesse Chisholm was a half breed Cherokee who lived in the Indian Territory, and it is said that in 1866 he left his home on the little Arkansas River for a trading trip to the valleys of the Canadian and Washata rivers in the Indian Territory; that he led his wagon train over the faint trace of the trail made four years before by the Federal troops under Colonel Emory, when they had withdrawn their posts in the Indian Territory under pressure from Confederate troops from Texas, and marched to Fort Leavenworth.

Charlie Siringo, a Matagorda County cowboy with some literary tendencies, wrote a story of his wanderings along these old trails in which he relates:

"About 1867 the Government moved the Wichita and affiliated tribes from the region where Wichita, Kansas, now stands. They were then living on the Arkansas River near where Chisholm and Cow creeks empty into that stream. Before starting with his Indians, Major Shanklin made a deal with a rich squaw man by the name of Jesse Chisholm to open a trail and establish supply depots through the Indian Territory as far south as Red River. With a large train of ox teams, Chisholm went to Leavenworth and loaded up with Government supplies. On his return trip he bought 100 wild ponies and drove them ahead of his ox teams and used them to settle the quicksand at the crossings of the Cimarron and the two forks of the Canadian. More than three thousand Indians with their thousands of ponies and the mounted soldiers followed the ruts of Jesse Chisholm's wagons and made a roadway which was christened the Chisholm Trail. Drovers from Texas would connect with this trail after they crossed Red River."

And as early as 1867 or 1868 the trail that they made south of Red River and along the way that Duffield had gone had come to be known as the Chisholm Trail, although the half breed Cherokee never drove a herd over it as far as we know. In later years this trail was extended to San Antonio and on to the Rio Grande and the name went with it.



MAP showing the route followed by George C. Duffield in driving a herd of 1,000 cattle from Texas to Iowa in 1866. This marks the route of the first Texas cattle that ever reached the Chicago stockyards which were opened in December, 1865.

Still other trails were opened crossing Red River to the west, one at Red River Station between Belknap and Fort Sill, another at Doan's Store, above Vernon, and the general appellation of Chisholm Trail seems to have been given to all of them.

Emerson Hough, the novelist, who just before his death wrote *North of 36*, one of the greatest of the cattle novels, lived in the same town in Iowa with the Duffields, and had George Duffield's diary before him and was familiar with it long before it was published.

Just at this time railway building was active in the western states. The Kansas and Pacific Railroad was extending to the west but did not reach Denver until 1870, and as it went forward from one terminus to another, towns built along its way became the nearest shipping points to Texas. Each had its day—Abilene, Dodge City, Ellsworth, Cheyenne and many other points. Beginning in 1867 and continuing actively until 1885, when nearer railroad facilities were extended into Western Texas, there was a continuous stream of Texas cattle moving north to the markets opened by this railroad transportation. Drives up these trails continued with considerable volume until as late as 1895.

In May, 1871, when Sherman and Marcy rode from Fort Richardson to Fort Sill, they passed large herds of cattle en route to Kansas, and on May 21st Marcy noted in his diary:

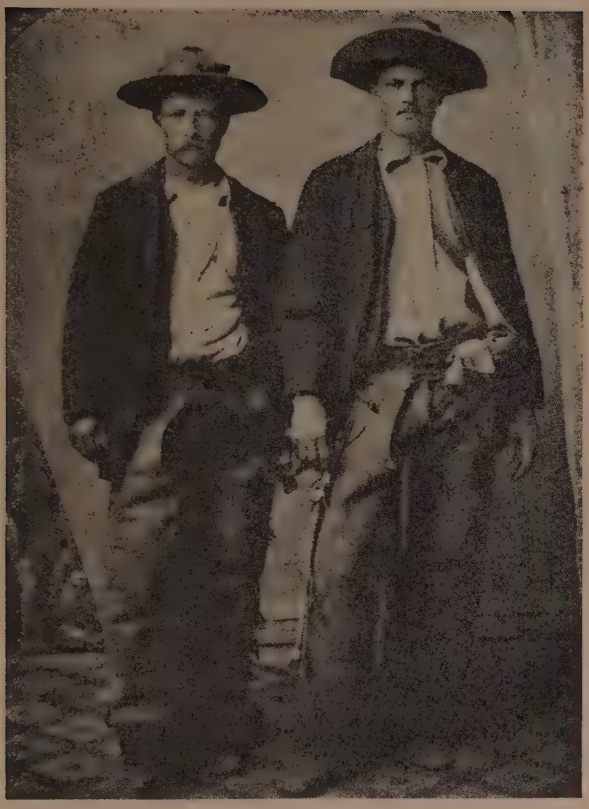
"Followed the old Belknap road, crossed Red River at Red River Station. This is the great crossing for the herds of cattle going from Texas to Kansas. The stock raisers in Texas keep an agent here who registers the cattle of different herds that cross the river into the Indian country. Each drover is required by law to keep a record of the number, brand, name of the vendor, and date of purchase of all the cattle he drives, the whole signed and acknowledged by the vendors. When the drover arrives at Red River, he exhibits his purchase list to the agent who verifies it by count and examination and notes the result upon his tally register. This prevents drovers from tak-

ing off cattle that may have mixed with their herds and not been paid for."

The shortage of cattle in the West, North and East, and the fact that they could be gotten to these markets through the railway connections in Kansas, furnished the first ample and dependable cattle market that had ever been opened to Texas. The prices paid were often very high and great fortunes for those days were being readily made by enterprising persons who bought or otherwise acquired these herds in Southwest Texas and pushed them on across these trails into Kansas. The old Chisholm Trail that in the late '60s passed by Fort Worth, on just west of Decatur, and by Gainesville and on across Red River was so beaten with the hoofs of passing herds that it was nearly a quarter of a mile wide, well worn beneath the surface of the surrounding prairie and marked all the way by the bleaching bones of fallen cattle.

George W. Saunders, late president of the Trail Drivers Association of Texas, said in an address he delivered to that Association in 1916:

"In 1867 and '68 some of our most venturesome stockmen took a few small herds of cattle to New Orleans, Baxter Springs, Abilene, and other markets. The northern drives proved fairly successful, although they experienced many hardships and dangers. The news of their success spread like wild fire and the same and others tackled the trails in 1869. It was a question of finding a market for the stock at any price. There was very little money in the country and no banks or trust companies to finance the drives. In 1869 drives proved successful which caused many others to join the trail drivers in 1870. By this time going up the trail was all the rage. 1870 was a banner year in all the markets. The drivers came home and began preparing for the '71 drives. Excitement ran high. There was never such activity in the stock business before in Texas. Thus opened the spring of 1871. Imagine all the ranchmen of South,



Trail Drivers

East and Middle Texas at work at the first sign of spring, gathering and delivering trail herds."

Summing up the results of nearly thirty years' activities, Mr. Saunders says:

"From 1885 the drives were lighter up to 1895, when the trail which had been used twenty-seven years was closed. Nothing like it and its far-reaching accomplishment ever happened before or will happen again. It is estimated by the most conservative old time trail drivers that an average of 350,000 cattle were driven up the trails from Texas for each year for twenty-eight years, or a total of nearly ten million cattle, which represented to the ranchmen at home nearly one hundred million dollars. That a million horse stock were sold in the same way for as much as ten million dollars. The circulation of the millions produced by the industry, passing directly into channels that were open to receive it produced the prosperity that has been evident in Texas for so many years. The cowman, the merchant, the day laborer profited thereby, and the vast volume of gold that flowed into these channels is absolutely incomprehensible."

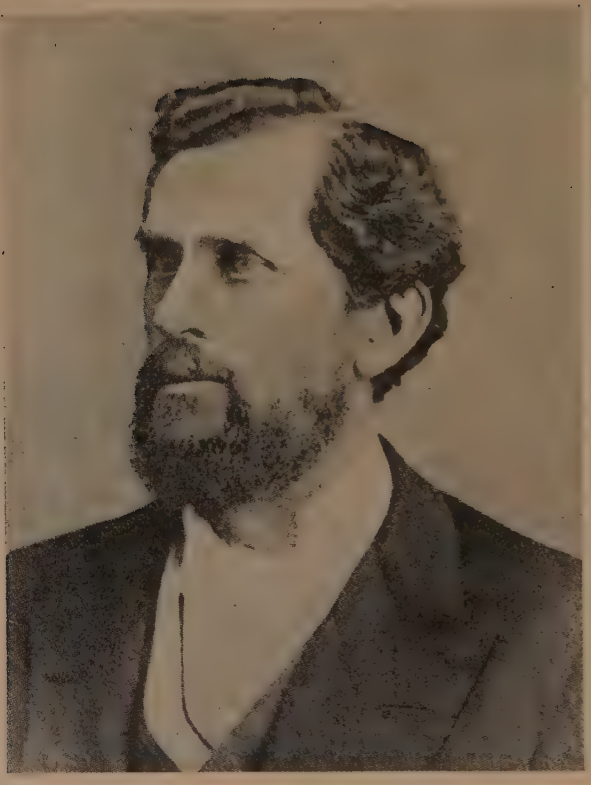
During these years many estates, vast in that day, were built up by ranchers in Western Texas. Often these ranches would include areas larger than a Texas county. The country was sparsely settled, full of rough characters, and each ranch owner and trail driver was a law unto himself. As is usually the case when men come to sit in final judgment upon their own rights, these so-called cattle barons often became arbitrary and overbearing, and they formed a great barrier against the homesteader. The settler with all his worldly goods in a wagon, with his family and children, moving into Texas to locate a home and build fences that would interfere with the cattle trails, was looked upon as an intolerable nuisance and long years of strife ensued between the ranchman and the farmer, which only within our time ended in the capitulation of the big ranch. But if the ranchman despised the homesteader, he loathed the sheep

man, and there were years of strife between those who tended flocks and those who drove herds. With the passing of the big ranch, and the closing of the old trails, this interesting epoch came to an end, but it still lives in song and story, in romance and upon the screen. Those who read with thrilling interest the stories of Zane Grey and Emerson Hough, or witness on the screen the valor of the knightly cowboy might be interested in a description of him that was printed in an Abilene, Kansas, paper in 1871.

"The Texas cattle herder is a character, the like of which can be found no where else on earth. Of course, he is unlearned and illiterate, with but few wants and meagre ambition. His diet is principally navy plug and whisky, and the occupation nearest to his heart is gambling. His dress consists of a flannel shirt with a handkerchief circling his neck, butternut pants and a pair of long boots in which are always the legs of his pants. His head is covered by a sombrero, which is a Mexican hat with a high crown and a rim of enormous dimensions. He generally wears a revolver on each side of his person which he will use with as little hesitation on a man as on a wild animal. Such a character is dangerous and desperate, and each one has generally killed his man. They drink, swear and fight and life with them is a round of boisterous gayety and indulgence."

Probably the Kansas editor was extreme in his characterization but the sentimental fiction writer and the modern screen which pictures this rude specimen of the '70s as a knight errant or a gilded saint are equally wide the mark. The old rancher and his cowboy were a hardy race of men who lived in the open, fought a hard life, and were no better or worse than other generations of pioneers under similar conditions.

The trail drivers of Texas have gathered together in a large volume the traditions of these days, and it is a thousand pages of hardy adventure, triumphs and disappointments, and an intimate glimpse of a life that has passed forever.



JOHN IRELAND, GOVERNOR FROM 1882-1886

Fred Sutton, who went over the trail in '81, tells the following pathetic story, illustrative of that life.

"Bert Phelps joined us at the old Boot ranch. He was a mild mannered, blue eyed boy of twenty-two, educated and refined and seemingly out of place on the trail. He was seen one day reading a little pocket Bible, which he hurriedly put away and blushed like a school girl when he saw us looking at him. Though quite modest and retiring in disposition, he was soon a rank favorite with all except Bill Driscoll, who never missed a chance to make light of 'mamma's boy,' as he called him. Bert was warned once or twice to look out for Driscoll, as he was a bad and ugly-tempered man. One day Driscoll met him at the water hole and picked a quarrel, drew his gun, killed the lad and rode away. On a gently sloping hill, overlooking the valley of Red River, we placed the mortal remains of poor Bert Phelps. In his pocket we found a little Bible on the fly-leaf of which was written, 'from Mother to her boy.' Where he came from no one ever knew."

It is a long, long trail from George Duffield's first herd to the modern stock yards, but it is over this long trail that the cattle business has made its way.

"Ah what tales of joys and sorrows
Could these silent trails relate,
Tales of loss, of wrecked ambitions,
Tales of hope and love and hate."

(Ranch Verse)

The system of herds on free ranges which prevailed for a long time was doomed by the passing of the public domain into private ownership by the lease system for public lands adopted in the early '80s and by the advent of the homesteader. But it had a further blow by the coming of the barbed wire fence which was well on its way in the '80s. Wortham in his *History of Texas* tells an interesting incident about the introduction of the

new fangled fence. He says that in 1871 a young hardware salesman named John W. Gates reached San Antonio with his samples, but found no one who would believe that this little wire would hold a wild Texas steer. To prove his case he fenced in one of the plazas of the city and filled it with cattle from the range and demonstrated that his fence would work. The millions of acres of lands granted railways were being forced on the market, and the state adopted a lease system for its school lands so that the big pasture rapidly encroached on the open range. This was a blow to the class of cattle men who thrived without owning land and paying taxes. Free grass was going fast and prejudice against the big pasture and in favor of open range became a political issue. Men ran for office on a free grass platform. Unable to legislate against the encroachments of the wire fence, the gentry who felt aggrieved at the loss of the ancient right of open range had recourse to fence cutting. It was easy for an industrious person with a wire clipper to destroy miles of pasture fence in a single night. In North and West Central Texas these night operators did so much damage that in 1883 Governor Ireland called a special session of the Legislature to deal with fence cutting and regulate the question of roads through the big pastures. The result was a statute making fence cutting a felony and requiring all public roads to be left open. Free grass and the fence cutter both passed away and in time the big pasture succumbed to the economic demand for harvests instead of herds.

CHAPTER XCIX

THE PUBLIC DOMAIN AND THE SCHOOLS

During the colonial period the Mexican government made no serious effort to establish schools in Texas, and the Republic was without means to do so. From the first our people looked to the public domain to finance this, as every other public project. The first land grant for schools was made in 1839, when the Congress of the Republic set aside three leagues for each county then organized, the rental from which was to be used to establish an academy in each county. In 1840 this was increased to four leagues. When one reflects that the revenue from three or four leagues of wild land, if leased at all, would only be a few dollars a year, this first land grant to the school system seems a jest, yet it was an honest effort towards a great purpose which was ever present in the minds of the pioneers.

When Texas came into the Union its Constitution of 1845 extended the benefits of this grant to all counties that had been formed since the first grant was made and all that might thereafter be organized. This Constitution supplemented the grant to each county by alloting one-tenth of the annual revenues from all sources for school purposes. In a new country without roads, courthouses, schoolhouses or any character of public improvements, slow progress could be expected toward founding an adequate school system, and prior to the Civil war little was done. When the boundary settlement of 1850 was made, and the state received ten million dollars from the Federal Government, two millions of this fund were set aside for the schools. The interest on this sum, about four thousand dollars per annum, was used to pay the tuition of indigent children; all persons able to do so

were required to pay for their children's schooling. By an act passed in 1856, all schools were declared to be public schools that met certain requirements. It was considered that the funds derived from the sale, lease or interest on land notes belonged to all of the people of the state, while those raised by taxation should be used only to pay the tuition of indigent children, and if anything was left over from this source it should be distributed per capita to all of the children of the state.

During our early history there was much opposition to a universal system of free schools. Many contended that the state should only tax itself to pay for the education of indigent children. As late as 1858 the law was amended so that children of the poor were the only ones that would get the benefit of state money. It was found, however, that the teachers would report every child whose tuition was not paid as indigent since it was easier to collect the money from the state than from the individual parents.

Just prior to the war practically the entire school fund was invested in railroad bonds. This was the unsatisfactory condition of our educational fund and our educational system at the beginning of the Civil war. The Constitution of 1869 provided that all children between the ages of five and sixteen were to be educated. Supplementing the income from the sale of public lands, this Constitution set apart one-fourth of the entire public revenue to the school fund, and added thereto a poll tax of one dollar for all male persons between the ages of twenty-one and sixty and further provided that if these funds were insufficient, the Legislature might have recourse to taxation to supplement them.

The state had never been able to adequately provide for the education of white children, and now it had the added burden of schooling the negro and could count on no assistance by way of taxation from the colored population. This new burden was not taken up kindly and the opposition to colored schools rose to violence in the early '70s, when schoolhouses were burned and

teachers maltreated. The Davis administration felt called on not only to provide an adequate school system for white and colored children but to make attendance compulsory, and in 1871 passed a statute which set up a board of education with large powers and levied a tax to support its activities. The Taxpayers Convention of 1871 advised the people not to pay this tax, and little was accomplished by the ambitious school plan of the radical regime.

In 1872 one-fifth of the entire available school fund was used to pay the expenditures of the Davis board of education.

In 1873 the first great grant of public lands to the common schools was made when the Legislature set aside for them one-half of the then unappropriated public domain. This was confirmed in the seventh article of the Constitution of 1876 which in addition to one-half the public domain devoted all the alternate sections reserved by the state out of grants theretofore made or that thereafter be made to railroads. From this source has come our permanent school fund. Texas, having retained its public lands when it entered the Union, is the only state which has had the benefits of this source of revenue. While the largest grants from these lands have gone to the school fund, yet they were used for almost every public purpose until the domain was exhausted in 1882.

During the years of Spanish sovereignty, the crown made many land grants in Texas, and after Mexico became independent the title to its lands was vested in the states and the domain of Texas was under the sovereignty of the states of Coahuila and Texas, subject to be disposed of by the Legislatures which sat sometimes at Monclova and sometimes at Saltillo. Under the empresario policy, which began with Austin and extended throughout the period of Mexican sovereignty, 1821 to 1836, contracts were made by which the empresario would bring in settlers who would receive land grants, the contractor receiving a bonus of so many leagues, dependent upon the number of settlers that he located. Titles to these lands were made by the

Mexican government, and at the time Texas achieved its independence over 26,000,000 acres had been titled.

The provisional government used land everywhere it could to finance its operations. Certificates were granted to soldiers, a league to the heirs of each man who fell at the Alamo or Goliad and one to each soldier who fought at San Jacinto. The Republic inaugurated a system of land grants which was conservative for its time under which more than 36,000,000 acres were titled during the period from 1836 to 1845. The grant of three leagues to each county in 1839 was the beginning of our system of school grants. When Texas became a state and its counties increased, this policy was extended so that each new county as it was organized received its leagues of land as long as there was any land left, and before the public domain was exhausted 239 counties had received their full quota.

The largest grants of lands have been to the public school fund, which has received a total of 45,000,000 acres. The following table shows the disposition of the state's public domain beginning with the early Spanish grants:

	Acres
Grants by Spain and Mexico to individuals	26,820,000
Grants by Republic of Texas to individuals (direct)	36,876,000
Grants by Republic under Empresario Contracts	4,494,806
Grants under Homestead and Preemption Claims	4,847,136
Grants to the Veterans of Texas Revolution (1876)	1,169,382
Grants to the Confederate Veterans (1876)	1,979,852
Grants to railways	32,400,000
Grants to other industrial enterprises	27,000
Land covered by scrip	1,329,000
Land otherwise sold for revenue	1,671,000
Land used for erection of capitol building	3,050,000
Grants to county school funds	4,229,166
Grants to state school fund	45,000,000
Grants to University of Texas	2,289,000

Grants to private universities	110,700
Grants to state asylums	400,000
Grants miscellaneous in character	172,038
Total acreage of Texas	170,926,080

In 1882 the public domain had become exhausted and there were left outstanding certificates for 8,000,000 acres with no land upon which to locate them. A vast empire had passed to individual ownership.

The largest subject for legislative activity during the fifty years since our Constitution was adopted has been our educational system. While other topics have for a time claimed attention, this one has been a matter of constant care and each of the Legislatures has devoted statutory efforts, changing, enlarging and improving our cumbersome and ever-inadequate school system. The Constitution of 1876 permitted the Legislature to appropriate one-fourth of all ad valorem taxes for school purposes and this was done by the very first Legislature which convened after the Constitution was adopted.

In his message to this Legislature, Governor Coke said that during the past year the number of children of scholastic age had been 161,670, and the average cost per capita $1.56 per month or $6.24 per term of four months, a total expenditure of approximately $1,000,000. There was a deficit of nearly $600,000, after applying the entire income from the permanent school fund, one-fourth of the ad valorem state tax and the poll tax collected. This deficit was left to be raised by county taxation. Only about one-half of the scholastic population attended school at this time. When the university opened in 1883, there were only seven high schools in Texas.

In 1883 the Constitution was amended allowing a state levy of twenty cents on the one hundred dollars to supplement the available fund and permitting the organization of independent school districts which could levy special taxes.

It would be endless to trace the evolution in our school laws since the adoption of the Constitution of 1876. The present sources of revenue by which they are supported are these:

The poll tax of one dollar per capita.

One-fourth of the occupation tax receipts.

One-fourth of the gross tax receipts.

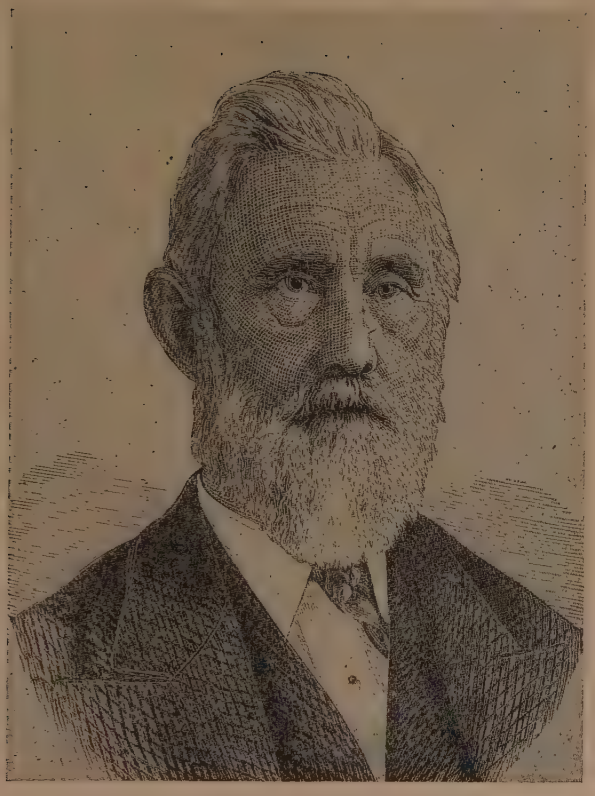
One-fourth of the gasoline tax.

One-fourth of the fees to the Commissioner of labor and miscellaneous fees to the Comptroller's Department.

Income derived from the permanent school fund.

In addition to these there is a biennial appropriation from the general revenue to supplement the available school fund which amounts to about $2,000,000 per annum. The total disbursements for the support of the public schools in 1925 were $21,596,000. The permanent school fund has been built up almost entirely from proceeds of the sale of the public domain set aside to it by the Constitution and by statute. In 1874 this fund showed a balance of $2,500,000. At this time it aggregates approximately seventy-five million dollars.

While there has been much talk about the sacredness of the school fund and for the most part it has been carefully safeguarded by succeeding administrations and Legislatures, yet more than once stupidity and cupidity have sought to lay hands upon it. During the first administration of Governor Campbell $100,000 from this fund were diverted for the construction of a state railway from Palestine in Anderson County to Rusk in Cherokee County. The road has been a failure from the first and the prospects now are that it will ultimately be abandoned. During the second administration of Colquitt, a wild scheme was devised for the organization of a state banking system with a central bank known as the State Bank of Texas. The plan provided that gold bonds of the permanent school fund amounting to $17,800,000 should be the basis of the capital stock of the bank. The whole plan was weird, complicated and senseless, although it was vigorously urged by many persons who



O. M. Roberts, Governor 1878-1882

should have known better. At one time it was dangerously near having legislative approval, but tremendous sentiment was aroused against it and it was defeated.

Although the expenditures for our public schools are very great and constantly increasing, the educational system of Texas ranks low when compared with the systems of other states. Its free textbook system is a perennial scandal, and the curriculum of our public schools, and high schools as well, is overloaded with useless topics while practical and essential things remain untaught.

CHAPTER C

THE UNIVERSITY OF TEXAS

The constitution of the Republic of Texas provided that "it shall be the duty of Congress, as soon as circumstances will permit, to provide by law a general system of education." In 1839 President Lamar urged the Congress of the Republic to appropriate land from the public domain for both elementary and higher education, and an act of Congress in 1839 provided that a tract of land at the seat of government be set aside as a site for a university, along with the other state buildings. The land eventually set aside for the university, consisting of forty acres now containing the university main buildings, is said to have been indicated by General Lamar personally. It remained unoccupied for some forty years and during the time was known as "College Hill."

On January 26, 1839, an act was approved which set aside fifty leagues of land (221,400 acres) for the establishment and endowment of two universities, one to be in the eastern and the other in the western part of the state.

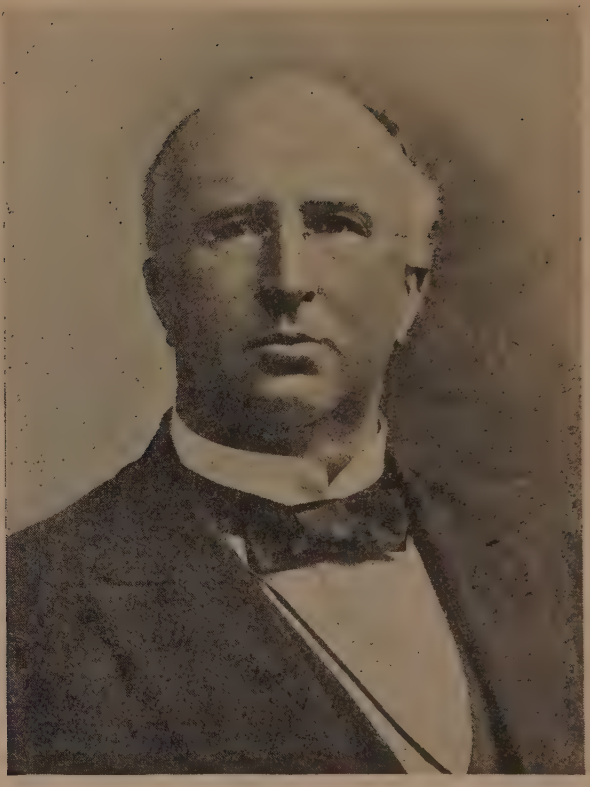
In 1857 Lewis T. Wigfall, a state senator, introduced a bill which became a law and among other things provided that there should be only one university and that $100,000 of United States bonds in the treasury be appropriated to its establishment and maintenance; supplementing the fifty leagues of land previously set aside by the Republic; and that one section out of every ten, which had previously or might thereafter be appropriated for the use of the state by the Railroad Act of 1854 be set aside for the university.

In his report in 1868 State Superintendent Wheelock said that some of the land alloted to the university by the Act of 1858 had been sold on twenty years' time and at the average of $3.34 per acre. Of this sum $379,000 had been dissipated during the Civil war by the state authorities, much of the land had been paid for in Confederate money. He reported that the amount of the university fund in the treasury at that time was $134,000 in state paper.

The present constitution of the state (1876) provided that "the Legislature shall as soon as practicable, establish, organize, and provide for the maintenance, support, and direction of a university of the first class, to be located by a vote of the people of the state, and styled 'The University of Texas,' for the promotion of literature and the arts and sciences, including an agricultural and mechanical department." One million acres of land was appropriated for its establishment, and in 1883 the Legislature donated another million.

In a message to the Legislature in 1881 Governor Roberts outlined the main features for a bill to establish and organize the University, and based his idea upon a memorial of a committee of the State Teachers Association. An act carrying out this plan was passed. The journal of the Legislature shows that Senators Buchanan, A. W. Terrell, Wynne, Gooch and Stubbs were active in carrying it through the Senate and that it passed the House without serious difficulty. The first board of regents appointed under this act were Thomas J. Devine, James W. Throckmorton, Richard B. Hubbard, Ashbel Smith, James H. Starr, A. N. Edwards, James H. Bell, and Smith Ragsdale. Col. Ashbel Smith was elected president of the first board of regents.

The academic and law departments of the university were organized in 1881 and opened to students on September 15, 1883, making use of rooms in the state capitol building temporarily until the main building of the university was sufficiently completed for occupancy on January 1, 1884. The cornerstone of the main building was laid on November 17, 1882, with Col. Ash-



DOCTOR WINSTON, FIRST PRESIDENT OF THE UNIVERSITY OF TEXAS

bel Smith as the principal speaker of the occasion. The first president of the university was Dr. George T. Winston, who was elected to the place by the board of regents on June 30, 1896, and was formally inaugurated on February 10, 1897. The medical branch at Galveston was not open to students until 1891.

Texas has granted to the University a total of 2,229,225 acres of land. In 1895 the board of regents was given the management of these lands and in general it has been their policy to retain and lease rather than sell them. In 1908 there were 2,070,225 acres still held by the university and leased at the average rate of four and nine-tenths cents per acre. The report of the board of regents in 1922 showed that the fifty leagues of land granted in 1839 had been sold at an early date, and that $600,000 were realized from the sale, this being invested in five per cent bonds. The 2,000,000 acres granted in 1876 and 1883 were leased and in 1922 brought in $231,000 or a little more than ten cents per acre. This land is scattered in tracts in Andrews, Crane, Crockett, Dawson, Ector, El Paso, Gaines, Irion, Loving, Martin, Pecos, Reagan, Schleicher, Terrell, Tom Green, Ward and Winkler counties.

In 1923 Haymon Krupp and Frank T. Pickrell of El Paso, who had promoted an oil company to explore university lands in Reagan County, Texas, brought in an oil field from which the university has received more than $5,000,000 in royalties, and conservative estimates indicate that from this field alone the institution may expect to receive more than $15,000,000. Vast deposits of potash were discovered in these wells which may be of untold value in the years to come. There is a possibility that from these lands which have been too arid for homesteaders and not salable at more than a few dollars per acre may furnish a source of wealth which will make the University of Texas one of the richest educational institutions in the United States.

CHAPTER CI

THE FIRST TEXAS RAILROAD

We now reach the epoch of great railway construction in Texas, and approach the period when railway regulation became the chief political topic.

In September, 1825, George Stephenson built and put into operation on the Stockton and Darlington Railroad in England a steam locomotive, the success of which has usually been treated by historians as the beginning of the railroad era. The following year a railroad three miles long was built to carry granite from the quarries of Quincy, Massachusetts, to the nearest tidewater. It was known as the Quincy Railroad, and was the first constructed in the United States. In 1828 the Delaware & Hudson Company, then operating canals and carrying coal to New York City, sent its engineer to England and he purchased and brought to this country the two first railway locomotives.

In 1830 there were only twenty-eight miles of railroad in the United States. This mileage was increased from year to year, and in 1836 a number of short lines had been built in the East aggregating about 1,200 miles.

When the first Congress of the Republic of Texas met at Columbia in the autumn of 1836, it had before it every kind of a problem essential to the formation of a new government and the acts of this first session evidence an originality and boldness which are both interesting and commendable. Among other things, it granted a charter to Dr. Branch T. Archer, and his associates, for a corporation authorized to connect the waters of the Rio Grande and the Sabine by means of internal navigation and railroads from and to such particular points of connection

as might be agreed upon and selected by said company, with the privilege also of constructing branches, either by canals or railroads, to connect with the main line. The company was also to have banking privileges. It was to establish a central bank after the fashion of the Second Bank of the United States, with as many branch banks as it might think the necessities of the community required. Its capital was fixed at $5,000,000, of which $1,000,000 were to be paid in before the banking operations could begin. Although there was no more possibility of raising the $1,000,000 or of building any part of these railways than there would have been of establishing a line to the moon, the granting of this charter aroused grave apprehensions, and it was at once attacked from all quarters as a terrible piece of legislation designed to set up a monopoly in money and transportation that would take away the liberties of the people. A senator of the Republic, attacking it, said:

"I would rather have seen 20,000 Mexicans invade us than to have seen that charter pass into a law. We could with little difficulty perhaps whip and annihilate the Mexicans, but we could never get rid of this devouring monster."

The *Telegraph and Register*, Borden's paper, of July 29, 1837, denounced it:

"Our condition is now such that should we continue blind to our duty the fairest portions of our republic will gradually pass from our possession, and this vast institution, like a devouring monster, will commence the tremendous work of ruin, swallowing league after league, as planter after planter becomes entangled in its mighty toils, and at length county after county recedes into its capacious maw until finally liberty takes flight from what was once Texas, the land hallowed by the sacred blood of a thousand martyrs."

Although the corporation would have easily died of its own weight, these attacks hurried it to oblivion. Though this first railroad corporation died unwept, unhonored and unsung, the pioneers did not lose their ultimate hope for a system of rail-

ANDREW BRISCOE

roads. In January, 1841, the Congress of the Republic granted a charter to a corporation called the Harrisburg Railroad & Trading Company which undertook the construction of a railroad from Harrisburg all the way to the Brazos River. This enterprise was the dream of Andrew Briscoe of Harrisburg. In 1839 he and other persons associated with him, who were owners of land in that vicinity, conceived the idea of building a railroad from Harrisburg to the Pacific Ocean. He procured the services of an engineer, who made a superficial examination of the topography of the country almost as far west as Austin, and rendered a written report with his recommendations. Since this is the genesis of the first railroad construction undertaken in Texas, and the line subsequently built formed the nucleus of the great Southern Pacific System, the activities of Mr. Briscoe and his engineer have double interest. The engineer recommended that the first section of the road be extended from Harrisburg to a point in the prairie near Richmond:

"I would lay off town lots and dispose of them for the benefit of the road, and if necessary dispose of some of the land which will have been donated to the company for the same purposes."

He recommended that the second section run to Rock Island, a distance of about thirty miles north. * * * "Here I would pursue the same course as regards lots and lands."

He then proposed to "cross over the river" and go up through Washington County and to Austin. Having gotten this far with so little difficulty, he adds, "thence continue on in the most direct and practicable route to the Pass of the Rio Grande (El Paso), then on the Pacific Ocean at San Diego." He had heard that Major Neighbors had said that a route could be found across the Continental Divide to the Pacific and did not seem to doubt it. He then estimates with great accuracy just how they could finance this enterprise as far as the "Pass of the Rio Grande." They would sell enough lots at Harrisburg to build the first section of the road, and then enough at the first terminus to build the second section, and so on.

He estimates that it would probably cost $8,000,000 to build to the "Pass of the Rio Grande," and in his land calculations he works out only about 5,400,000, leaving a little deficit, but this does not seem to abate his enthusiasm.

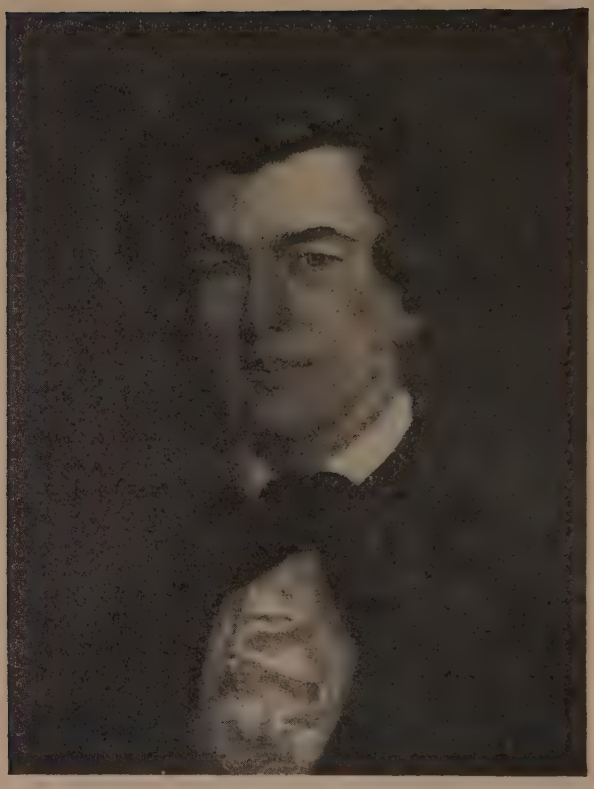
The original report, yellow with age, is among the papers of Mrs. Adele B. Looscan, the daughter of Andrew Briscoe, and is endorsed "California Railroad."

Mr. Briscoe took his negroes and began procuring a right of way and grading the road almost immediately after this optimistic report was made. In 1841 he procured from the Congress of the Republic the charter granted to the Harrisburg Railroad & Trading Company above noted. There are persons yet living who remember the old railroad grade which was constructed out of Harrisburg in furtherance of this first effort to reach the Pacific. But it never got beyond the grade stage.

In this connection it will be interesting to note the difficulties that arose with Mexico in the early '50s over the boundary west of the "Pass of the Rio Grande" and the steps taken to secure a feasible route for a Southern Pacific Railway. It was discovered when efforts were made to locate the boundary under the Treaty of Guadaloupe-Hidalgo that the line lay too far north to embrace the emigrant route which Major Neighbors had mentioned and over which Briscoe's engineer surmised the railroad might be so easily extended on down to San Diego.

There was much talk of trans-continental lines in the '50s, and, since a southern route within the boundaries of the Mexican treaty seemed impossible owing to the topography of the country, negotiations were opened with Mexico for an extension of these limits west of El Paso and the Pierce administration sent one Gadsden to Mexico to arrange the matter. General Santa Anna was for the seventh and last time president of Mexico, and the transactions were with him. In his memoirs written long after, he gives his version of how the deal was made:

"Mr. Gadsden said, 'The projected railroad from New York to California must be built by way of the Mesilla Valley because



William M. Rice, a Director of the First Texas Railroad and Founder of the Rice Institute at Houston, and One of the Promoters of the H. & T. C. Railway

Thomas W. Pierce, President of the Galveston, Harrisburg & San Antonio in the Seventies

there is no other possible route. The Mexican government will be *splendidly indemnified.* The valley must belong to the United States by an indemnity or we will take it.' "

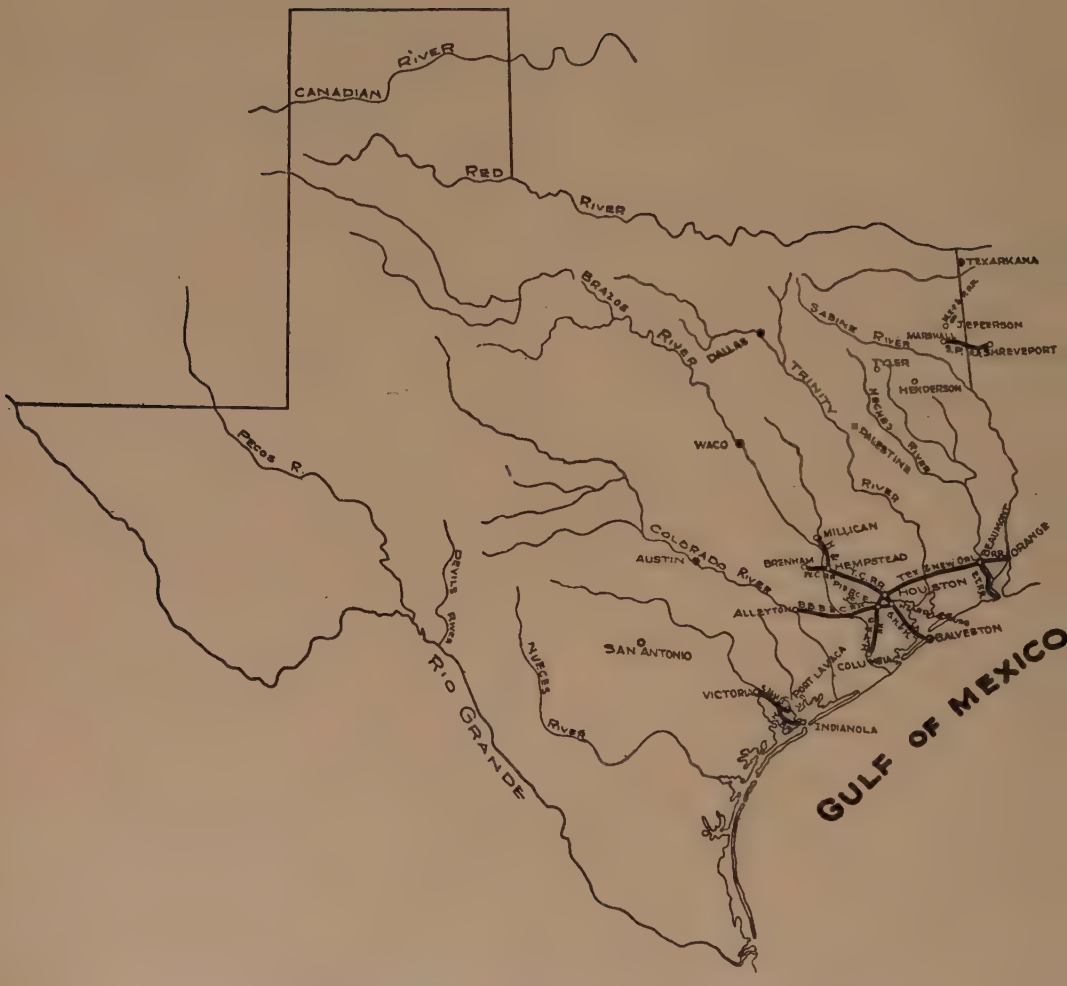
"Naturally such talk aroused my wrath, and I said: 'Mr. Gadsden, I heard you say *splendid indemnity,* and am anxious to know how much it will amount to.' "

His wrath was appeased by the payment of $15,000,000 and the United States acquired the Mesilla Valley and a feasible railway route along which the Southern Pacific was built thirty years later.

In 1847 the Harrisburg Townlot Company transferred all unsold lots to Gen. Sidney Sherman, who succeeded in inducing northern capitalists to invest in the enterprise of building a railroad from Harrisburg westward. The third legislature, in February, 1850, chartered the Buffalo Bayou, Brazos and Colorado Railroad, Sherman's enterprise. Among those joining General Sherman as incorporators were Gen. Hugh McLeod, William M. Rice, B. A. Shepherd, W. J. Hutchins and others. In 1852 the first locomotive was delivered, track laying commenced, and by the 1st of August, 1853, the road had been graded from Harrisburg to Stafford's Point, a distance of twenty miles, when a great barbecue was held to celebrate this triumph of modern progress. Two years later the road was completed to Richmond on the Brazos, a total distance of thirty-two miles from Harrisburg. A cheap pile bridge, built only about six feet above the water at low stage, was put across the Brazos, the middle sections being attached to flat boats to permit the passage of steamboats that navigated the river. In 1859 the road reached Eagle Lake and in 1860 was completed to Alleyton, just east of the Colorado River about five miles from Columbus. It was intended to extend the road up the Colorado River to Austin, but construction was arrested at Alleyton by the approach of the Civil war. Just before the war the people of Columbus, fearing that the road would be built up the east bank of the river and past their city, organized and incorporated the Columbus Tap Railway in order

to extend the line across the river from Alleyton, but this was not done until 1868.

Columbus was the terminus of this line for several years, and when General Sherman made his memorable visit to Texas in 1871 he mentioned traveling by rail from Harrisburg to Columbus and on horseback to San Antonio.



RAILWAY MAP OF TEXAS AT THE CLOSE OF THE CIVIL WAR

CHAPTER CII

HOUSTON AND TEXAS CENTRAL AND OTHER EARLY LINES

In 1848 a charter was granted the Galveston and Red River Railroad, and in 1856 it changed its name to Houston and Texas Central and its southern terminus to Houston. Grading began in Houston in 1853. Three years later the road had reached Cypress, and in 1857 had gone as far as Hockley and in 1860 had passed Hempstead to Milican, which remained the terminus during the Civil war.

In 1856 the Washington County Railroad was chartered to tap the Houston and Texas Central at Hempstead, and to build to Brenham. It was completed to Brenham, a distance of twenty-one miles, in 1860, Brenham remaining its terminus during the war.

In 1853 the Galveston, Houston & Henderson Railway was incorporated and began construction at Virginia Point on the mainland in 1854, and four years later reached Houston. For the first few years the road was operated in conjunction with a steam ferry that plied between Galveston and Virginia Point. In the summer of 1859 a bridge was completed across Galveston Bay, and the following year the railroad extended to Market Street, giving direct railroad connections between Galveston and Houston, a distance of fifty miles. This first railroad bridge across Galveston Bay was a tremendous undertaking in its day. In 1857 the people of Galveston voted almost unanimously for the issuance of $100,000 in bonds for the purpose of this construction. The bridge remained effective until 1867, when it was destroyed by a hurricane but was reconstructed and put in operation in 1868.

The Houston Tap and Brazoria Railroad was built by the City of Houston in 1856 all the way from Houston to Pierce Junction, where it connected with the Buffalo Bayou, Brazos and Colorado. The ownership of the road passed to private parties and in 1861 it was extended to Columbia on the Brazos River, a distance of fifty miles. This road was built largely by the sugar and cotton planters along the route who subscribed for stock and paid their subscriptions by grading the roadbed.

The Texas and New Orleans Railroad was chartered September 1, 1856, under the name of the Sabine and Galveston Bay Railroad and Lumber Company. In 1859 its name and charter were changed, and in 1861, at the outbreak of the war, it had been extended from Houston to Orange, a distance of 111 miles.

The Eastern Texas Railroad, extending from Sabine Pass toward Beaumont, had twenty-five miles of road in operation at the outbreak of the war.

A railroad from Port Lavaca to Victoria, a distance of twenty-eight miles, had been completed in 1861, and to offset this enterprise Indianola, a rival to Port Lavaca, began the construction of a line in 1858 which was designed to extend to Austin and on further north if necessary. Fifteen miles of this road were actually constructed at the beginning of the war.

The sum total of these activities is an aggregate of about 490 miles of railroad that were in operation at the beginning of the Civil war. The accompanying sketch is the railroad map of Texas in 1861 to 1865.

CHAPTER CIII

STATE AND MUNICIPAL AID

In Texas, as throughout the central and western states, early railroad construction was encouraged and to a large extent financed by government aid, usually in the form of land grants. In the middle western states where railroad building was active as early as 1850, the Federal Government owned the lands and either made grants to the railroads direct or to the state for the benefit of these prospective roads. The first large government land grant was made in 1850 when Congress set aside 2,700,000 acres of land to aid in the construction of the Illinois Central Railroad. These grants had the entire approval of the state and Federal authorities. Senator Douglas, speaking for this measure, said:

"These lands have been on the market from fifteen to thirty years. They will not sell for more than $1.25 per acre. A railroad will make them salable at double the usual price."

Henry Clay, supporting the measure, said:

"That portion of Illinois through which this road will run is a vast prairie 300 miles in length. The land is utterly worthless for any present purpose and by constructing this road through the prairie you will bring millions of acres of Illinois land immediately into demand."

This grant and the sentiment which prompted it are typical of Federal legislation which made land grants throughout the Middle West and Northwestern states extending to the Pacific Coast.

Between 1852 and 1854 the Legislature of Texas made several land grants to individual railroads, among them the Hen-

derson & Burkville and the Houston Texas Central Railroad Company. By the terms of these acts, when the company had completed five miles or more of road and a proper report of that fact was shown to the comptroller, he would notify the commissioner of the General Land Office, who was required to issue land certificates to the amount of eight sections of 640 acres each for every mile of road constructed. In January, 1854, the principle of special grants was enlarged into a general law entitled "An Act to encourage the construction of railroads in Texas by donations of land." This law gave sixteen sections to the mile, to be issued when any segment of twenty-five miles had been completed. Two years later the state went still further, and in 1856 a statute was passed providing that when a railroad company could show a continuous section of twenty-five miles or more completed and ready for rolling stock, and another like section graded and ready for ties, it should be entitled to receive a loan from the public school fund of six thousand dollars for every mile actually completed. In return, the company was required to execute its bond to the state for the money received and to pay eight per cent interest. Under the terms of this act, loans were made before the Civil war to several railroads then constructed aggregating $1,800,000.

During the period that these last two acts were in force, forty companies were chartered but only nine completed sufficient mileage to secure any benefits under the act. Some 500 miles of weak and disconnected railway seems to have been the total result of this legislation. After the war there was a great demand for railroad extension, and the Constitution of 1866 authorized land grants, but it was superseded by the military before anything had been done under it, and in the Constitution of 1869 there was a prohibition of land grants to railways.

The first Legislature that met after this constitution became effective was besieged to do something to aid railroad construction, and passed statutes donating state bonds to the International Railway Company and to the Southern Pacific, afterwards

the Texas and Pacific. These bonds were the scandal of the Davis administration, and it was openly charged then and for many years later that their passage through the Legislature was procured by all kinds of fraud. The comptroller refused to issue them on the ground that they were void, and they never became state obligations. There was immediately a demand for some legislative policy to aid railroads and in 1872 a constitutional amendment was adopted which authorized land grants. The next year Governor Coke came into power, and in his first message to the Legislature, he said,

"I recommend the utmost liberality in dealing with the railroads; they are a necessity for Texas," and he urged land grants to that end.

When the Constitution of 1876 came to be formed the question of state aid to the railroads was much debated. There was a strong sentiment against it, principally among the delegates from the eastern portion of the state. Those from the central and western sections were loud in their demands for a land grant policy that would bring railroads into their country, and they made the bold statement that if this were not done a fight would be waged to divide the state. Mr. Darnell, the venerable member of the Legislature from Tarrant County, who had sat in the Constitutional Convention of 1845, declared against land subsidies and said that not a single mile of railroad had ever been built in Texas by them.

Judge West of Travis County told the delegates from east Texas that $2,000,000 of the school fund had been expended by a loan to build railroads in eastern and central Texas and that they should not deny west Texas the same privilege. In final form an article was passed permitting land subsidies to railroad companies up to sixteen sections for each mile of railroad constructed. This was a continuation of the old policy of 1854 and remained the policy of the state until the public domain was entirely exhausted six years later. Under these statutes sixty-seven companies were chartered prior to the repeal of the Land

Grant Act in 1882. Of this number, only nineteen constructed their roads and only twelve received grants.

Since the beginning of the land grant policy, thirty years before, the state had made grants to forty-one companies and the total amount of land so granted was 32,400,000 acres, an area larger than the State of Indiana. The largest grants made in Texas to individual roads were 5,167,000 acres to the Southern Pacific, 4,700,000 acres to the Houston and Texas Central, 3,331,000 acres to the International and Great Northern, and 3,259,000 acres to the Gulf, Colorado and Santa Fe. Almost all of these grants contained a requirement that the company should locate the lands, locating at the same time an alternate section for the school fund, and alienate to actual settlers within a short time, a failure to alienate them working their forfeiture. Forced to sell the lands to prevent losing them, railway companies hurried them on the market and got the best prices they could for them. It has been estimated by Vice President Baldwin of the Burlington Railroad, who has investigated the land grant policy of the Federal Government, that the actual amount of monies received by the various railroads that received Federal land grants was no more than 2 per cent of the cost of the construction of these roads, and it has been estimated that the Texas railroads realized little more than this for their lands. Many suits were filed in the '90s for the forfeiture of land grants for failure to alienate, and about 4,000,000 acres were recovered by the state.

CHAPTER CIV

A LAWLESS PERIOD

The great era of railroad building which followed the Civil war was acclaimed with much enthusiasm by the people everywhere who felt the imperative need of railroad transportation, but no sooner had these lines been established in the upper Mississippi Valley states than a conflict arose between them and the people which became nation wide and formed an outstanding political issue for the remainder of the century.

There was no system of railway regulation, either state or Federal, and each road was a law unto itself. Few of them were able to make money enough to pay a return upon the investment and keep going, and those in the West and Southwest fared the worst of all. Many of them were hurriedly built by speculators through territories then and long afterwards unable to support them, and the freight and passenger rates charged were so high that the people cried out against them. But the greatest complaint was not the excessiveness of these rates but their rank discrimination, and the agitation that was started in the early '70s, and which continued for years, was not so much to lower rates as to equalize them and prevent ugly abuses in the way of discrimination and freight rebates.

As early as 1873 an effort was made at regulation by statute in Illinois and other western states which brought on the celebrated Granger cases. Almost immediately the panic of 1873 ensued, and the financial interests that were unfriendly to railroad regulation charged that this crusade for their regulation had caused the great panic. Every effort at early regulation was met by the cry that those who proposed any form of govern-

mental interference in railroad matters were out to confiscate property.

The system of financing by which these railways were chiefly promoted was an open scandal. Stocks and bonds generally valued at double and often many times the cost of the road were floated, and the control of these roads was manipulated through traffic in this stock. The owners of these securities demanded the right to earn a return upon excessive stock issues, when in fact the roads were often incapable of earning even operating expenses.

The greatest sin traceable to railroad management during this period was the system of rebates by which favored enterprises would get advantageous rates against their competitors. Since it often happened then, as it will happen now, that the freight rates a business will pay are greater than its profits, a slight advantage in the rate to one concern over its competitor was sufficient to destroy the competitor's business.

It was during this time that the Standard Oil Company rose to prominence and under the domination of the elder Rockefeller carried on a system of warfare against its competitors, manipulating and controlling the railroads, forcing rebates for its freights, and using this control to destroy competition. It was shown in legislative investigations carried on in the early '80s that the Standard was receiving rebates on its freights amounting to nearly ten million dollars per year; that by control of railroad stocks it had come to control railway lines to such an extent that it could dictate not only the freights that it paid and force these enormous rebates, but could fix almost any freight rate that it chose for its competitors. In this way, it built up a gigantic monopoly, first destroying and then acquiring the properties of almost every competitor that appeared anywhere in the oil world. Now and then a railroad dominated by honest management sought to show its independence, but it was always whipped into line, even if necessary to force it into bankruptcy and receivership to accomplish this end. Controlling

both the railroads and the pipe lines, the Standard became supreme and when it was embarked in the enterprise of crushing out the independent refineries at Pittsburgh in 1878 legislation was sought in Pennsylvania for their relief, and an effort was made to hold a mass meeting to protest against prevailing conditions. But the meeting was packed with henchmen and workmen of the Standard refineries who howled down the speakers. The press, whose columns had been subsidized, joined in this crusade, so that railroad and general financial conditions of the late '70s and early '80s presented a spectacle of ugly monopoly and brutal oppression which, but for the bitter experiences of the war less than twenty years before, might have brought on a revolution.

When the Constitutional Convention met in 1875 the echoes of this fight had reached Texas, but since the state then had only about 1,500 miles of railway and was straining every effort to get more lines, it was deemed wise not to incorporate in the constitution any of the new ideas with reference to regulation that were being recommended in those states which had abundant railway transportation. Article 10 of that constitution, with its nine sections, contained the sole discussion of railroads. It declared them to be public highways and common carriers and conferred upon the Legislature the power to correct abuses and prevent unjust discrimination and extortionate rates, a power which the Legislature possessed without constitutional permission. The Fifth Section prevented the consolidation of parallel and competing lines. The Sixth declared against the acquisition of any Texas railroad by a foreign line. The provisions of this article are mere generalities; they contain nothing severe or drastic.

CHAPTER CV

THE POOLING POLICY

Pioneer railroads, although often conceived in wild speculation and dominated and controlled by financial pirates, nevertheless had great economic difficulties to overcome which were long successfully pointed to as a reason against any legislative invasion of the railroad field. It was early demonstrated that unrestrained competition among the railroads was not a good thing, although many advocated this as the only means by which the people could get fair treatment. Where two railroads invaded a territory that could support only one and began fighting for freight, the result was disastrous to the weaker one and often to both. By this means, the stronger usually worked the destruction of the weaker and acquired its properties.

A glimpse of the character of the men who dominated railway affairs in the '80s is found in the testimony before a legislative committee of one of the Vanderbilts, who was charged with having brought about the destruction of the West Shore Line, in order to acquire its properties for the New York Central which he controlled. He said that the West Shore was a miserable thief who had been caught with its hand in his pocket, and that the war which he had brought on through the New York Central would never stop until he gained control of the West Shore.

Railroad war was the common sport of financiers during this period and for long years afterwards. Combinations among one group to wreck and destroy another and acquire its properties were of common occurrence. To prevent this competition, which was often destructive, the railroads began a series of pooling

agreements which they justified as a plan for preventing railway wars and securing uniformity of rates. The general form of these freight pool agreements was a plan alloting a certain percentage of the traffic of a given territory to each road reaching it and providing that if any road exceeded its share of the business, freight should be diverted from it to another road until the agreed proportion fixed by the pool was thus established. A railroad entering this pool was assured its portion of the revenue whether it got the business or not, and found itself relieved of the necessity of doing anything to get business. It could allow its properties to run down, divert its earnings into dividends, and become a common loafer, yet enjoy the benefits of the pool. These pooling agreements were of doubtful validity and unenforceable on account of their violations of the principles of the common law against such combines, and railway managers often found themselves willing to renounce them if they were financially unfavorable to a particular road. They were no more than gentlemen's agreements, and the large percentage of the railroad managers of that time could not qualify to make such an agreement. So in the early '80s there was open talk among the railway people that the Government should recognize these pools and provide some means of enforcing them.

As early as 1884 the theory was advanced by railway officials that since it was obvious that competition between railways brought on so many evil results, some law should be passed to restrict the building of new lines, except upon the consent of a state tribunal or commission which should be organized for the protection of railways against the public and among themselves. It is, therefore, interesting to know that before legislative control of railroads was effected anywhere, the railways themselves were crying for some character of governmental intervention to legitimatize and stabilize their business.

In 1881 Collis P. Huntington had secured control of the lines which afterwards became the Southern Pacific System and Jay

Gould had control of the International and Great Northern and Texas Pacific lines. Both systems were being pushed to the West. A pooling agreement was made between Huntington and Gould, just prior to the completion of the Texas and Pacific to El Paso and after the opening of the Southern Pacific from New Orleans to San Francisco, by which they were to divide the traffic between these two systems in the territory between El Paso and New Orleans. The Texas and Pacific was to release all its claims to the railroads constructed by the Southern Pacific in New Mexico and Arizona, and the right of way on which they were constructed, and was to convey to the Southern Pacific all of its franchises west of El Paso and its claim to lands in California as well as New Mexico and Arizona. The Texas and Pacific should continue the construction of its road to El Paso, forming a junction at Sierra Blanco, and to have the use of the Southern Pacific tracks the remainder of the way to El Paso.

The railways belonging to both companies and those belonging to the Southern Pacific west of El Paso were to be operated as one through continuous line. The gross earnings from through business passing over one company's lines to the other was to be divided between them in proportion to the distances hauled by each. The gross earnings on all business passing over either of these roads between El Paso and New Orleans in either direction was to be pooled, and divided equally, while the gross earnings on business passing between El Paso and Galveston should be divided two-thirds to the Southern Pacific Lines and one-third to the Texas and Pacific Lines.

There was to be no construction by either party to the agreement of parallel and competing lines or any duplication of lines, except as authorized by the executive committee to be composed of Collis P. Huntington and Jay Gould and a third person to be chosen by them.

This contract, as other similar pooling contracts throughout the country, is interesting because there is in them the germ

of the idea of control which has since been effected by Federal legislation so as to permit the consolidation of lines into large systems extending through many states and to prevent cut-throat competition and restrict the building of new competitive lines. Such provisions are now made and enforced by law and not dependent upon the whims of individuals who may for a time dominate the properties.

CHAPTER CVI

FIRST EFFORTS AT REGULATION

Should the regulation of railways be by legislative action or through the courts? If by legislation, should it be state or Federal?

In the Granger cases decided in 1876, the Supreme Court of the United States, fully recognizing the power of the Federal Government, at the same time recognized greater powers in the states than had theretofore been believed to exist, and from these cases came the thought that the problem was largely one of state regulation. In 1876, Massachusetts had adopted a railroad commission, but it had done little toward regulation. Various other states followed, so that there were eight or ten state commissions with regulatory powers when the question became an active one in Texas. The people expected little help from these commissions at first. It was thought that they would be filled by politicians who would be dominated by the railways, and many of the advocates for control first sought this control through the courts.

The question came before Congress in the '70s and there were two lines of thought. One was represented by Judge Reagan, who introduced and for four successive terms fought for the celebrated Reagan Bill. The other was represented by Cullom, which looked towards the establishment of an interstate commission. Judge Reagan's idea was to pass congressional legislation making discrimination unlawful, defining the rights and duties of railways to the public, and leaving the enforcement of these regulations to the courts. The Cullom Bill provided for the establishment of a board of nine railway commissioners

authorized to hear and investigate complaints in all parts of the United States, and with jurisdiction to assess damages for unlawful acts, and providing that if any railway should fail to pay such damages and discontinue the offense, the case shall be certified to the Federal Court for enforcement.

When the State Democratic Convention was in session at Galveston in 1878 there was a deadlock between Hubbard and Throckmorton for the gubernatorial nomination. Judge Reagan in his memoirs notes:

"At a late hour on Sunday night, following the week's balloting, I was aroused from sleep by a committee and informed that it had been agreed that if I would accept the nomination for governor, the names of Throckmorton and Hubbard would be withdrawn on Monday morning, and that I would be nominated by acclamation. I stated to those gentlemen that I had introduced in the House of Representatives a bill to regulate commerce between the states and was chairman of the committee on commerce which had it in charge, and that I deemed it so important to the interests of the whole country that I would rather succeed in securing its passage than have any office in the gift of the people; that I did not know who would succeed me in advocating the bill, and that for these reasons I would have to decline the nomination."

Almost every political or quasi-political gathering in Texas between 1878 and 1890 voiced a protest against the existing system of railroad management and rates. The Democratic Convention of 1878, which nominated Roberts, declared it the duty of the Legislature to pass an act regulating the rates of freight in obedience to the state constitution, and the Greenback Labor State Convention of the same year demanded the passage of such laws as would prevent discriminations and rebates, and which would require common carriers to furnish the same transportation at the same price to all men. The State Grange at its convention in 1880, which was only a quasi-political organization and did not name a state ticket, made substantially the same

FOUR TEXAS GOVERNORS—LUBBOCK, ROBERTS, ROSS, HOGG

demands as those found in the platform of 1878, and further declared that the Reagan Bill, then before the United States Congress, "is the best measure yet proposed in Congress," and urged its passage.

These demands in general terms were repeated and became louder in convention platforms from year to year, but they did not at once take on the form of a demand for a railroad commission. They contented themselves with calling upon the Legislature to exercise the regulatory powers contained in Article 10 of the Constitution of 1876, and seemed willing to rely upon the Legislature and the courts to effect proper regulation.

The state convention of the Farmers Alliance, which met at Cleburne in 1886, called for the passage of an interstate commerce law that would be all powerful to prevent rebates and pooling to shut off competition, etc. The Democratic Convention in that year, which nominated Ross for governor and Hogg for attorney general, protested against the method by which the railroads were then being operated in Texas and pledged itself to see that the abuses were corrected.

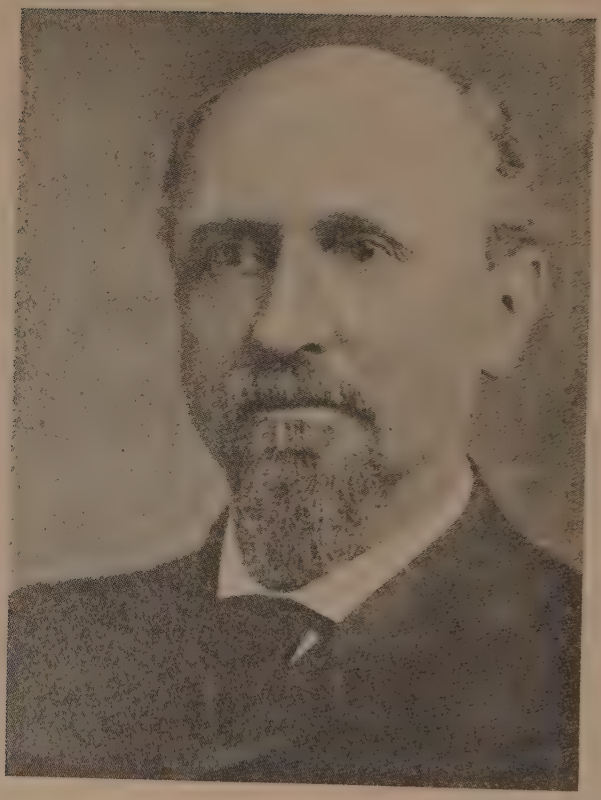
At the first impression, it is a little strange that up to this time there was no specific demand for a railroad commission, but it must be remembered that the Interstate Commerce Commission was not created until 1887 and there was grave doubt throughout the country whether commission bodies with the regulatory powers delegated to them by Congress and the State Legislatures could or would accomplish anything. The commissions then existing in many states had so far been almost, if not entirely, impotent, and the only clear statement of the power and duty of regulation was found in the few decisions of the courts that had come to consider these questions.

The Huntington-Gould pooling agreement which parceled out railroad patronage in Texas between the Southern Pacific and the Gould lines had not been made public at this time.

The Texas Traffic Association, created by the railways for the purpose of regulating rates and the prevention of destructive

competition, was organized in 1885 and reorganized in 1887. Its avowed purpose was to regulate all freight and passenger business carried by the lines becoming members of the association, and to place this control in the hands of an executive committee which should agree upon classifications and rates, and, when so fixed, no road was allowed to reduce these rates or grant any rebate or special rate. In case of emergency, the chief executive of this association was to have power to make changes in rates and regulations to remain in force until the next meeting of the executive committee.

After entering the pooling agreement with Huntington in 1881, which assured the Gould lines a division of the Texas traffic whether they handled it or not, Gould, in order to get the maximum amount of money that could be realized from these lines, diverted all the earnings possible and allowed the roadbed and equipment to deteriorate to such a degree that the services rendered by the International and Great Northern, reaching through Texas from Texarkana to Laredo and the Gulf, had become a matter of great complaint. In December of 1887, Attorney General Hogg, who had pledged himself to the correction of all corporate abuses in general and of railroads in particular, brought suit in the District Court of Travis County against this railroad. He sought the forfeiture of its charter, the annulment of its exemption from taxation, and the appointment of a receiver, upon the ground that it had permitted its roadbed and rolling stock to get so out of repair as to endanger the lives of its passengers; that it had failed to keep its passenger and freight depots in repair; that it had diverted its corporate funds to unlawful purposes; that it was encumbered by watered bonds and stocks; that it had leased and sold out its entire corporate property to the Missouri, Kansas and Texas Railway Company, a competing line and an alien corporation.



LAWRENCE SULLIVAN ROSS, GOVERNOR 1886-1890

CHAPTER CVII

HOGG AND THE COMMISSION

The filing of the action against the International and Great Northern was the opening gun of the long fight which lasted for more than a decade, and resulted in the amendment of the Constitution of 1876 and the establishment of the Railroad Commission of Texas and the passage of the stock and bond law. This first suit was soon followed by one which the attorney general filed against the Texas Traffic Association, seeking to dissolve it and enjoin it from exercising the functions it had assumed.

Up to this time no political party in the state had made a specific demand for the creation of a commission. In 1888 a "non-partisan" convention met at Fort Worth and nominated a state ticket headed by Evan Jones of Erath County for governor, and declared for the government ownership of railroads. The democratic convention of that year, which renominated Ross for governor and Hogg for attorney general, contented itself with the same general statement that had appeared in its platform for ten years, demanding the proper regulation of railway charges. Governor Ross was a Conservative, and belonged to that school of thought in Texas which did not favor strict corporate regulation for fear of retarding the development of the state. But he fully realized the necessity for some relief in the railway rate situation, and, in his message to the Legislature in April of that year, he sounded an ominous warning:

"For six years or more the people of the state have been demanding legislation to restrain railroad corporations from violating plain provisions of the constitution and to restrict the

powers of the same to impose upon the products and merchandise of the country burdensome and extortionate freight charges."

The Farmers Alliance held its first statewide convention in this year, and made the same old demand that the state establish maximum rates *"upon a basis that will allow no more than a reasonable income on the money actually invested in the road."*

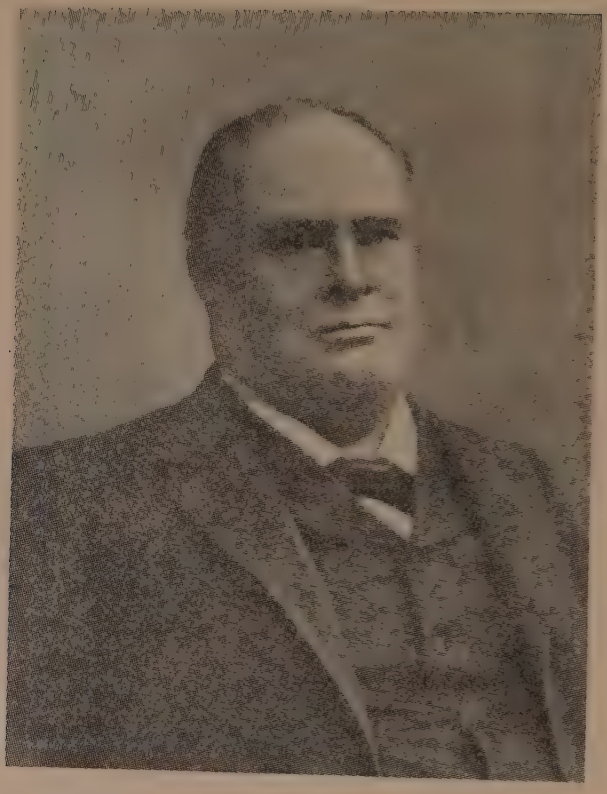
The first specific demand for a railroad commission that was made through any representative gathering came from a body styled a State Rate Convention, which met at Dallas in July, 1889, and which, though rather meagrely attended, found present a number of representative men, among them Jerome Kirby, J. A. Kemp and A. C. Owsley. It adopted a long arraignment of the railroad situation then existing in Texas, and recommended an amendment "which removes all constitutional doubt as to the creation of a railroad commission."

A committee composed of one from each senatorial district in the state was created for the purpose of carrying out the ideas embodied in this address, and among its membership were A. H. Schluter of Jefferson, J. W. Bailey of Gainesville, and M. M. Crane of Cleburne.

Attorney General Hogg's attack upon the International and Great Northern Railway and the Texas Traffic Association, although it was enthusiastically received in many quarters, met equally strong opposition from other sources and especially from a large portion of the state press. The *Galveston News* said:

"This species of litigation is calculated to injure Texas much more than to benefit it. Political capital and legal acumen are two things, but progress is another."

Just here began the cleavage between the conservative and radical, or what we have later come to call the progressive wing of the democratic party, which resulted in the split of the party and the celebrated Hogg-Clark campaign of 1892.



JAMES STEPHEN HOGG, GOVERNOR 1890-1894

The Twenty-first Legislature, which met in January, 1889, at the beginning of the second term of Governor Ross, was so bombarded with demands for the establishment of a railroad commission that the House of Representatives passed a bill creating one, without recommending an amendment of the Constitution. Upon being told by the leading lawyers of the state that such an amendment was necessary, and largely in deference to the views of ex-Governor Roberts, who had so announced, this Legislature adopted a joint resolution submitting an amendment to Article 10, providing for the creation of this commission, to be voted on at the general election in 1890. Hogg became its chief sponsor and a candidate for governor at the 1890 convention. In the statewide discussion which followed, Judge George Clark of Waco soon became a dominant figure in opposition.

The railroads of Texas for the most part aligned themselves with the conservative element, opposing this regulation on the ground that owing to their poverty, which was well known, the sparseness of traffic, and the expenses of operation, no general relief in the form of revision of tariffs was then possible. Since they coupled the idea of a commission with the universal demand for a lower tariff, the roads accepted the commission idea as inevitable legislation for reduction of freight rates.

Ex-Governor Throckmorton became the candidate of the conservative wing of the party, and the fight between him and Hogg took a broader range than the commission question. Hogg's entire conduct as attorney general was attacked as radical and demagogical and the issue was squarely put between conservatism and radicalism.

The press of the state was divided in this campaign, the country press mostly favoring Attorney General Hogg, most of the leading dailies—including *Galveston-Dallas News*—opposing him. The notable exception among the daily papers was the old *Fort Worth Gazette,* which, under the leadership of the brilliant Walter Malone, was a powerful paper in its day, and it

joined the country weeklies in the popular cry for Hogg and a commission.

In addition to Throckmorton, Lieutenant-Governor Wheeler, Richard M. Hall, state land commissioner, and Judge Gustave Cook entered the race. The demand for a commission had become so popular that its opponents sought to avert what they deemed and announced as its dangers by advocating a commission with mild rather than extensive and plenary powers. All of Hogg's opponents acceded to the commission idea but declared that if it were vested with the power of regulating and fixing rates, this would amount to or result in inevitable confiscation. ex-Governor Trockmorton was then in his sixty-fifth year, and he soon realized that it was impossible for him to conduct such a canvass as would be necessary to meet the young and aggressive attorney general, and, after a few weeks' effort, he withdrew from the race. This made the nomination of Hogg an assurance.

When the State Democratic Convention met at San Antonio in August, 1890, it was found that Hogg and the commission had scored a complete victory. There were more than 2,500 delegates present. The Farmers Alliance was heavily represented. Hogg's almost unanimous nomination, followed by his vigorous campaign, readily placed him in a position of political leadership which had been acquired by few men in the history of Texas, and which he retained almost unabated until his death sixteen years later.

CHAPTER CVIII

THE FIRST COMMISSION

The Twenty-second Legislature met in January, 1891, and the fight was soon begun over the details of the Commission Bill, and one of the outstanding issues was whether there should be an appointive or elective commission. Governor Hogg demanded an appointive commission, and gave as his reason that it was necessary that the initial body that would carry this law into force should be selected with some idea of its fitness, and that he should have the power to name its personnel. This at once aroused great opposition because it had been a policy of the democratic party since the overthrow of the Davis regime twenty years before to make state offices elective, and it had long gone on record against the abuses of the appointive policy which had made the Davis administration tyrannical.

Five different commission bills were promptly introduced—two in the Senate, one by Cone Johnson and another by H. M. Garwood—and three in the House, one of them sponsored by Thomas J. Brown, which was the administration measure.

Hogg's overwhelming election and his great popularity, together with his tremendous native force, enabled him to so dominate the Legislature as to secure the passage of a law which met his entire approval.

The Twenty-second Legislature, to which was delegated the duty of passing the Commission Law, has always been regarded as an unusually strong one. Among its members were found many men who had been and were long after prominent in the public affairs of Texas. Among them were A. W. Terrell, who had been a conspicuous personality since before the war, and

was afterwards appointed minister to Turkey by President Cleveland. Thomas J. Brown, soon to take his place on the Supreme Court of Texas and become one of our great judges. H. M. Garwood, then a very young man, was the senator from Bastrop County. M. M. Crane, later attorney-general and lieutenant-governor and for more than thirty years an outstanding figure in Texas public affairs, was a member of the Senate from Johnson County. John H. Stevens of Wilbarger County, subsequently for twelve years congressman from the old Jumbo District, sat in the House. M. H. Gossett of Kaufman, who is now (1926) the head of the Federal Land Bank of Texas, Robert L. Batts of Bastrop, Walter Gresham of Galveston, were among the membership of the Lower House. Cone Johnson of Tyler was a state senator and Judge T. L. Nugent of Erath was in the House. Garwood, who took a very prominent part in the affairs of this and the succeeding session of the Legislature, was at the beginning of a long and useful career in Texas. He was then and has continued a conservative of the old school, and in the debates in the Senate he brought to bear a fine intellectual force and a great scholarship. Fourteen years later when he had retired from his short career as a legislator, he succeeded R. S. Lovett as general counsel for the Southern Pacific Lines in Texas, when Mr. Lovett became the advisor of the Harriman Lines in New York. During the two decades which he has remained with these lines he has helped shape their policies and with an apt regard for their duties as well as a zeal for their rights he has been a potent factor in the development of modern conditions which from every standpoint are very satisfactory. He witnessed the birth of the commission in 1890 and twenty-odd years later he was chief counsel in the famous Shreveport case which established once and forever the supremacy of the Federal power over all roads engaged in interstate commerce and placed limitations upon the activities of state commissions but for which a national system of railways would have been impossible.

H. M. Garwood

The bill which finally passed, creating the first commission, was just as Governor Hogg wanted it, and he assumed responsibility for all of its provisions by declaring that he had dotted every "i" and crossed every "t" in it. It provided for an appointive system, and was so worded as to prevent, if possible, an appeal to the Federal courts, by declaring that the rates fixed by the commission could only be attacked through the District Court of Travis County. It was generally expected that the railroads would appeal to the Federal courts, and Governor Hogg was rather free in his criticisms of those tribunals both before and after the litigation began. After much persuasion, he induced John H. Reagan, then one of the United States senators from Texas, to resign his place in the Senate and accept the chairmanship of the commission.

Reagan, who was born in Tennessee in 1818 and had come to Texas in 1839, was then in his seventy-third year, and had behind him a life of the most conspicuous service, and was regarded in that generation—as he has been ever since—one of the truly great characters of Texas. He had been identified with the earliest legislation in Congress for the regulation of railroads, and was one of the architects of the Interstate Commerce Commission. His appointment, therefore, was looked upon, and no doubt was, the very best that could have been made.

The other two members of the first commission were L. L. Foster, a newspaper man, and W. P. McLean, a lawyer. Both were men of integrity and ability.

The attack upon the commission was promptly forthcoming. A schedule of freight rates was prepared, which Judge Reagan first submitted to the freight agents of Texas for discussion and criticism, and as soon as it was adopted suit was instituted in the Federal Court to enjoin these rates as confiscatory and attacking the legality of the Commission Act in general as violative of the Federal Constitution. The state was represented in this legislation by Charles A. Culberson, the attorney general, and by Henry C. Coke, of Dallas, then and since recognized as

one of the great lawyers of Texas. Robert S. Lovett appeared as counsel for the International and Great Northern. He was then a young man in his thirtieth year and destined in a few years to become one of the leading lawyers of Texas and later the successor of Harriman as president of the Union Pacific and Southern Pacific railways. His career as a railroad president has made him a nationally known figure. The fight for the railroads was led by J. W. Terry, then and now the general attorney for the Santa Fe.

The preliminary skirmish was the hearing before Judge A. P. McCormick, then a member of the Circuit Court of Appeals for the Federal District including Texas. Judge McCormick was a native Texan, born and reared to manhood in Brazoria County, and a lifelong Republican. He was a member of the Constitutional Convention of 1869, and his course in that convention was independent and commendable, and his career on the bench was a long and distinguished one, ending only with his death early in the present century.

Judge McCormick enjoined the schedule of rates fixed by the commission, and in his opinion stated that it was well known that the Interstate Commerce Commission did not possess or claim the power to enforce rates fixed by it, except through the long established courts of the country, and that the Railroad Commissions of other states, with perhaps one or two exceptions, did not have or claim the power to fix conclusive rates. Hence, the many and severe provisions found in the statute constraining the roads to submit to any rates the commission might impose, and attempting to cut them off from invoking the protection of the Federal Constitution, was taking their property without due process of law.

The case then went to the Supreme Court of the United States, where the Commission Act as a whole was upheld and whatever doubt that had existed against the power of state regulation was put at rest.

Thus, after a stormy beginning, the Railroad Commission of Texas started on its long career. In 1895 the act was amended so as to make its members elective, and provided that their terms should extend for six years, one to be chosen each two years. In the meantime, the Federal Interstate Commerce Commission had been materially strengthened, so that the railroads and the public long ago came to accept the regulatory powers of these tribunals, subject only to review by the courts upon the ground that their acts may exceed constitutional limitations. That these bodies have been a great benefit both to the railroads and to the public is now almost, if not universally, recognized.

The Texas commission, with its varying personnel, for more than thirty years has in the main done good work, but it, like other state commissions, has suffered at times from weak and inefficient members, elected by demagogical attacks upon the railways. For many years state commissions adopted the policy of treating the railroads of the country as purely local, and hindering the state lines in every way from becoming part of national and trans-continental transportation systems. Such a policy was very detrimental to general railroad development, for these agencies are essentially national highways.

After years of litigation, which were marked with more or less strife between State and Federal regulation, the Supreme Court of the United States decided the Shreveport case reported in the 247 United States. This case involved a contest between the State Commission of Louisiana and the Interstate Commerce Commission, and its result was to declare:

That the commerce clause of the Federal statutes was to prevent interstate trade from being impaired or destroyed by the local (state) governments. That where conflicts occur between State commissions and the Federal commission that the power of Congress is dominant and final. That the abuse by the state of an instrument of interstate commerce is a ground for Federal intervention.

This decision extended the power of the Interstate Commerce Commission in such a way as to limit the capacity of State commissions for mischief in harassing the railroads by petty regulations that had a tendency, if not a direct effect, to impair their usefulness as interstate carriers and as members of national railway systems. A great lesson was learned during the European war which has had a beneficial result to the American railways and people. It demonstrated the utter fallacy of governmental management, and the need of a controlling Federal policy which would permit, under Congressional sanction, the amalgamation of railways into a few national systems. The result of sixty years' experience has been to bring to the United States the greatest railway mileage of any country in the world and the most efficient system of transportation on earth.

The overcapitalization of railway properties had been a matter of public scandal since their very beginning. It was estimated in 1884 that the real value of the American railways, the bona fide money invested in them, was just about one-half of the amount of stocks and bonds issued against them, and in the early stages of railroad management they claimed the right to earn a fair return upon their capitalization. When the matter first came to the attention of the Federal courts, however, this was denied, and the basis for values for earnings was declared to be the monies invested in and the values of the properties, so that the regulation of railroad finances was not essential to a proper regulation of rates. But since the control of railroads, the ownership of the properties was achieved through a manipulation of stocks, it became a matter of more or less importance that these stocks bear some direct relation to the value of the properties. Then, too, there was a widespread demand that the issuance of stocks be regulated for the protection of the public purchasing them, although none of them were bought and sold in Texas. Governor Hogg advocated a stock and bond law under which no railroad could issue these securities in excess of a

valuation of its properties fixed by the Railroad Commission. He declared:

"I know of one road that, within a few weeks after it was sold for $8,000 a mile, was mortgaged to secure bonds issued to the amount of $37,000 per mile upon it. There is hardly a road within the state that has not year by year increased its bonded indebtedness until now they nearly all owe quadruple their value. By this illegal process, millionaires are made."

The passage of a law to accomplish this purpose failed during his first term, and he made it a paramount issue during his second.

The Stock and Bond Law substantially as we now have it was passed during his second term in 1893. Like the Commission Law, the Stock and Bond Law has accomplished good results. Although its stringent provisions and narrow construction by the Railroad Commission have probably at times been hurtful and hindered railroad development, yet no one would now seriously urge the right of these quasi-public institutions to issue and float stocks and bonds without any relation to the value of their properties.

CHAPTER CIX

THE LAST STAND OF THE CONSERVATIVES

Simplicity in government, the fewest possible laws and non-interference in private business was democratic doctrine of the olden days. The moderen vogue of commissions, bureaus and regulatory laws of many kinds came with the complex conditions of the latter day industrial life, and is here to stay. But it was not accepted without a struggle by the conservatives, who saw in Hogg and his policies only radicalism and ruin.

Many of the conservative leaders who had controlled the party and state since reconstruction were at war with the "storm-tossed" executive and his broadside against big business. Many young men like Garwood, Jonathan Lane, Dudley G. Wooten, H. L. Matlock and Royal A. Ferris, B. B. Paddock and John W. Simpson regarded his extreme policies as against the traditions of the party and hurtful to the state. While they opposed Hogg for his radicalism, yet there was another and far more numerous faction that was equally hostile because he did not go far enough, and the Farmers Alliance and Knights of Labor and kindred groups that had mostly supported him in 1890 were out after his scalp in '92.

When Senator Reagan resigned to become a member of the Railroad Commission the year before, the governor had appointed Horace Chilton, a Tyler lawyer, his successor. Roger Q. Mills had become the most conspicuous member of the Texas delegation in Congress, where he was the leader of the party in the House of Representatives. The cry was raised that he was entitled to the senatorship which, through favoritism, had gone to a member of the "Tyler Gang." Hogg had procured a commission, but all his critics denounced it, the railroad people on general principles, and others because he had deprived the

people of the right to elect its members.. He had attacked foreign insurance companies and they and their agents in Texas joined the opposition. He had procured the passage of a law against the alien ownership of land which was defective in form, and declared his purpose to have it re-enacted, and this brought on the enmity of those who dealt in lands. His stock and bond law had failed to pass in the last Legislature, and he declared, "by gatlins," it would be passed next session, and in its provisions many business men saw dire disaster. They started early to encompass his defeat, and in February a representative conference of those who opposed him for these reasons assembled in Dallas, and induced Judge George Clark of Waco to contest his renomination. While this conference was in progress, and Hogg was being assailed for his unbearable radicalism, and plans were being formulated for his overthrow by a conservative appeal, another conclave sat in Fort Worth, where Harry Tracy, Stump Ashby and their compatriots foregathered to plan his downfall because he was too conservative. His ideas of railway regulation were all rot; the Government should own them. They had a solution for the money question which would do away with banks and substitute a system of sub-treasuries, and many other suggestions for the good of the country.

There was a special session of the Legislature in March called to redistrict the state following the compilation of the last census, and the governor resubmitted the stock and bond law defeated at the last session. Along with it he also urged the re-passage of the alien land law and a more drastic anti-trust statute. Since this was the first legislative session after the appointment of Chilton to the Senate, the special session must elect a successor to Reagan and a great cry was made about the slight to Mills, who had earned the honor given Chilton, for no other reason than that he had played marbles with Governor Hogg in East Texas. Here a test of Hogg's strength was expected, but on the eve of the election Chilton withdrew, leaving the election of Mills without contest.

GEORGE CLARK

The faction now headed by Clark called itself the "Old Line Democracy." That manipulated by Tracy and Ashby "Jeffersonian Democrats," and before the first flowers of spring had bloomed they were off for a year long campaign.

Clark accepted the mandate of the conservative wing of the party to oppose Hogg for renomination, and began an active campaign early in the year, and in April Governor Hogg was on the hustings. The slogan of the Conservatives were fewer laws, a friendly attitude toward foreign capital. "Turn Texas Loose" was the catchy expression printed on banners and badges at every Clark rally. When this campaign was at its height, a joint discussion was arranged between Judge Clark and Governor Hogg, which was held at Cameron early in May, in which the rival candidates faced the largest audience that had ever been assembled in Texas. As the campaign progressed it was evident that Governor Hogg would have a decided lead in the state convention. This was before the passage of the present election law which compels the holding of state-wide primaries on the same day, and the executive committee in each county fixed the time for holding the primary or convention in that county. The state convention met at Houston in August, and, while there were fewer than one thousand votes, several times that number of delegates had been sent to cast them. A substantial majority of the delegates were instructed for Hogg, but there were contesting delegations from many counties. More than five thousand people crowded in the old car barn of the Houston Street Railway Company, where the convention was to be held. Hogg's adherents nominated John L. Sheppard, father of our present United States senator, for temporary chairman. Jonathan Lane of Fayette County was nominated by the opposition. A row over the method of voting resulted in the withdrawal of supporters of Judge Clark to Turner Hall.

Both conventions now proceeded to make nominations and adopt platforms. The Hogg convention declared against the Government ownership of railroads and telephone lines, for the

unlimited coinage of silver, in opposition to the national banking system, and for the incorporation of a system of state banks, for a graduated income tax, for an appointive railroad commission, for a law regulating the issuance of railway stocks and bonds, against land corporations, and requiring corporations then holding titles to lands to dispose of them. The fourth plank in the platform adopted by the Turner Hall Convention fairly illustrates the line of cleavage between the two factions of the party:

"We believe the world is governed too much, and that the least government which may suffice for the protection of the citizens is the best government. Government is instituted among free men solely for the protection of life, liberty and property, and whenever it attempts to interfere with the business of the country it is guilty of usurpation and ought to be rebuked by the people. Such attempts have always resulted in promoting certain classes at the expense of all other classes. A wise and frugal government is one which shall restrain men for injuring one another and which shall leave them otherwise free to regulate their own pursuits of industry."

This platform declared for the continuance of the present method of railway regulation, and viewed "with alarm the existing war upon the rights of property in the state." * * * "We condemn all secret oath-bound political organizations as un-American and un-Democratic."

The campaign fought out upon these several platforms between the two factions of the Democratic party and the Populist party was essentially one involving issues and political principles rather than mere personalities. The three men nominated for governor—Hogg, Clark and Nugent—were all citizens of the highest type, and they represented widely divergent schools of political thought. Midway between extremes was the faction led by Governor Hogg, and the platform adopted at the car stable convention was radical enough to prevent a stampede to the Populist party and conservative enough to hold the rank and file of the Democratic organization.

CHAPTER CX

THE GENESIS OF THE THIRD PARTY IN TEXAS

While the railroads and the schools were the leading state topics during the latter quarter of the century, national questions of overshadowing importance held the attention of our people. New political and economic questions rapidly arose out of the conditions of this new era, which developed a school of thought foreign to all former experience in our political life. The American population was yet chiefly rural. Between 1850 and 1860 the farmer possessed 70 per cent of the national wealth. The gold mines of California had furnished a supply of money which had put at rest the money question of the '30s, which had come to a climax in VanBuren's time. There were few millionaires and for the most part their fortunes had been made in mining or marine commerce or some similar hardy venture which escaped the imputation of fraud or corruption.

At the close of the war in 1865, the money in circulation in the United States was over $70 per capita. In 1866 there was a resumption of specie payments, and the Government withdrew and destroyed $363,000,000 of paper money. The destruction of this vast sum was never forgiven and the people saw in it a sinister purpose to help the "monied interests." The per capita circulation gradually declined until it was only $15 in 1873, and less than $5 in 1890. Silver was demonetized in 1873, and this was the crowning offense which for nearly forty years was denounced as the crime of '73. In that year the great panic was brought on by those who manipulated the supply of gold, and a few large fortunes were made at the ruin of thousands. The Standard Oil Company was now in the full power of its

awful monopoly, crushing its competitors and dominating the railways. Corruption stalked everywhere. The Vice President and members of Grant's Cabinet were accused and convicted of fraud by public opinion. The finances of the nation were dominated from Wall Street and the Tweed Ring was carrying on a carnival of crime in New York. All the while farm products were going down. In 1867 the grain crop of the country brought a billion dollars, and in '87 there was twice as much grain raised and sold for a billion. This the farmer reasoned should have brought twice as much but for the wilful restriction of the currency. Cotton had declined in a greater ratio and rural America, then as now without an intelligent market system, was in the throes of financial woe.

The people of Texas were slow to take up the new ideas of the progressive parties which sprung up everywhere. One of the first organizations through which they were propagated was the State Grange, which, although not a political order, soon became such in effect, and, as we have seen, had a high hand in the formation of our present constitution. The Grange movement reached Texas in 1873 with the establishment of a lodge called Salado No. 1 at Salado, Bell County, Texas. Three years later when it held a state convention at Tyler it claimed over twelve hundred lodges in Texas, with a total membership of 45,000. It is said to have reached its high tide in 1876, when it dictated the terms of the constitution, and in 1886 it had reached a period of decline that was probably due to the advent of the more militant and political organization, the Farmers Alliance.

The Grange was essentially a farmers' lodge. Its aims and purposes were high and pure. In addition to its impress upon our present constitution, it had much to do with the sentiment which brought on the railroad legislation which was enacted in 1891 to 1894.

The Grange was imported into Texas from other states, but the Farmers Alliance was a purely Texas product. The first of

these institutions was organized on Donaldson's Creek, in Lampasas County, Texas, in 1877. It was founded by John R. Allen, a farmer, and organized upon his farm. It bore the name "Pleasant Valley Farmers Alliance No. 1." The following year sufficient lodges had been organized in Lampasas County to justify a county gathering, and the order rapidly spread throughout the rural districts of the state. In July, 1878, a state gathering of the order met in Pleasant Valley, in which twenty-five subordinate lodges were represented. One reading the ritual of these lodges after the organization has run its course and passed away is impressed with the clean and lofty aims for which it declared. Among them, "In essential things, unity, liberty, and in all things charity; to strive to secure entire harmony and good will and vital brotherly love among ourselves; to suppress personal, local and national prejudices," etc.

The Alliance reached its greatest strength in the early '90s and became merged in the populist party in 1892.

Soon after the war, the advocates of fiat money found their expression in the greenback party, which was a national organization. As early as 1880, a greenback labor movement held a state convention at Austin and nominated a ticket and formulated a platform which declared the existence of great abuses and wrongs in the State Government under the control of the Democratic party. In 1882 the greenback party, as such, had assumed substantial proportions. The great burden of its song in that year, as two years before, was the high crimes and misdemeanors of the state democratic party, and especially it cried out against the bartering of 3,000,000 acres of state land for the construction of a capitol.

In this year ex-Governor Davis, who had remained the official head of the Republican organization in Texas, made an effort to harmonize all of the elements in the state in opposition to the Democratic party, and suggested a fusion with the greenbackers or anybody else who would be willing to fuse, but there was not

enough in common between him and this new progressive party to bring about any coalition, although Wash Jones received most of the Republican vote.

George Washington Jones of Bastrop County, who had enlisted with the greenbackers, ran for governor as an Independent against John Ireland, the Democratic nominee, and polled over one hundred thousand votes.

The greenbackers held their last state convention in 1884 and Wash Jones again tried for the governorship, with less success than before.

The Farmers Alliance grew in strength during the next eight years and out of it came the Populist party of 1892.

CHAPTER CXI

THE POPULIST PARTY IN 1892-1896

The Farmers Alliance, which was the nucleus of the extreme or progressive element in the state from 1888 to 1892, had supported Governor Hogg in 1890, but long before the convention season of 1892 it was known that a strong opposition was being organized in this element. The causes of it were several. A number of strong and ambitious leaders had arisen in this host who had political purposes of their own, and saw no hope of their fulfillment in merely following where Governor Hogg and his party led.

Since a split in the Democratic ranks was obvious, the peoples party leaders realized that this was their chance, if ever, for success in the autumn election. The plan that many of the populist leaders considered in the early part of the year was to go into the Democratic primaries and support their candidate, with the hope that they might be able to nominate him. Governor Hogg controlled the executive committee, which, in order to head off the possibility of Populist control in the primaries, read out of the Democratic party all those who advocated the sub-treasury and other extreme measures that had been put forth in the recent third party national platform. National issues aligned thousands with the opposition who had supported Democratic nominees for many years. The result was a monster Peoples Party State Convention at Dallas in June, which was presided over by H. S. P. Ashby of Tarrant County, who was reckoned as the great stump speaker of his day. Over one thousand delegates were present, and among those participating were Harry Tracy of Dallas, C. H. Jenkins of Brownwood,

Marion Martin of Corsicana, T. L. Nugent of Tarrant County, James H. (Cyclone) Davis of Hopkins, Thomas Gaines of Comanche, and many others who had been more or less prominent in different sections of the state. Judge T. L. Nugent was nominated for governor, and the convention adopted the peoples party platform that had been promulgated at Cincinnati the year before, and which was subsequently adopted at Omaha in July following. These platforms declared that the right to make and issue money was a sovereign power, and demanded the abolition of national banks, and the issue of legal tender treasury notes in sufficient volume to transact the business of the country on a cash basis. That such notes "when demanded by the people, shall be loaned to them at not more than two per cent. per annum upon non-perishable products as indicated in the sub-treasury plan," and upon real estate with proper limitations. With this was coupled a demand for the free and unlimited coinage of silver. In the event the Government could not effectively control public transportation and communication, then the party demanded Government ownership of these utilities. The platform upon state issues adopted by the Peoples party was not essentially different from the Democratic platform two years before, and the one adopted by that party in the same year. The issues upon which the Peoples party went to battle in 1892, and upon which they continued their fight for the next ten years, were essentially national questions.

The dominant faction of the Republican party in Texas endorsed Clark's candidacy and the triangular fight went furiously on until the November election, when Governor Hogg received 190,000 votes, Judge Clark 133,000, and Judge Nugent 108,000.

Though Nugent was defeated for governor in the three-cornered race in 1892, the Populist party in Texas was kept alive by national issues. The reelection of Cleveland in that year and his opposition to free silver and fiat money added great impetus to the third party movement throughout the

T. L. NUGENT

country. In 1894 the Populist party renominated Judge Nugent upon a platform which declared for the abolition of all private banks of issue, government ownership of railroads, telegraph and telephone lines, the free coinage of silver and the issuance of a volume of paper money sufficient to meet the needs of the business of the country, which was suggested to be $50 per capita.

In 1894, as two years before, the money issue was the rallying cry of the Populist campaign, and the State campaign was fought over national questions.

"No reform can be complete which does not involve a change in our financial system which will render the money monopoly impossible. The demand of the times is money that will circulate. National banks must go, and money must be issued direct to the people."

Their cry was:

"The leaders of the old parties have substituted the rule of gold for the golden rule. The rich are growing richer and the poor poorer; millions of tramps, homeless and hopeless wanderers, trudge along our highways and gaze despairingly over illimitable areas of unused land monopolized and withheld from cultivation by the speculator, the syndicate and the corporation. There are nine million mortgaged homes in the United States. In the last decade tenant farmers have increased more than twenty per cent. and Texas has more tenant farmers than any of the producing states except Illinois. The average price of wheat has declined from one dollar and ninety-nine cents in 1870 to thirty-eight cents in 1894. One-twentieth of one per cent of our population owns three-fifths of the entire wealth of the country. In 1860 we had but few millionaires and there were no tramps. Now we have more than thirty-one thousand millionaires and two million tramps."

The conservative attitude of President Cleveland caused a serious break in the Democratic party in 1894, and swelled Judge Nugent's vote against Culberson, who succeeded Gov-

ernor Hogg. Two years later Cleveland's policies had all but wrecked his party, and the Populists were in high hopes both in the state and nation. The National Democratic Convention met at Chicago in June, 1896. While its platform did not go quite as far as the Populists' "demands," it supplied this deficiency by the nomination of Bryan, who was on record as favoring almost if not all of the "demands" of the third party in its several platforms promulgated during the last six years. When the National Convention of the Populist party met in St. Louis in July, it had no excuse which would justify a refusal to nominate Bryan, whose populism was above reproach, and he was named for the presidency. They sought to save some shadow of an issue with the democrats by refusing to endorse Sewell for the vice presidency, naming Thomas Watson of Georgia for that unimportant place. The coup of the Democrats in Chicago in stealing most of the populist thunder and nominating Bryan was a blow from which populism never recovered. While it staggered to its fall the "Progressive Democracy" went marching on. In 1897 Bryan, in an address to the Texas Legislature, declared that Texas had met his entire approval in its progressive laws. Fifteen years later Senator Culberson claimed Texas the pioneer modern progressive state. "This movement began here under the leadership of Hogg ten years before LaFollette was Governor of Wisconsin and while Roosevelt was yet a mere police commissioner."

CHAPTER CXII

THE SPANISH-AMERICAN WAR

The Extermination of Yellow Fever

It was near the close of Culberson's second administration that the United States became embroiled in the war with Spain. War was declared on the 21st of April, 1898. It is strange to note that almost all of the wars in which our country has been engaged began in April. The first gun of the American Revolution was fired at Lexington in April. While the Texas Revolution did not begin in April, it ended gloriously on the 21st day of April, 1836. Our war with Mexico may be said to have actually begun with the skirmish between Thornton's dragoons and Mexican cavalry in April, 1846. The bombardment of Fort Sumpter, which began the Civil war, was in April, and we entered the World war in April, 1917.

Cuba, the last Spanish colony in the Americas, had been in a long struggle for independence. Before the Civil war there had been much sentiment in this country in favor of its acquisition, especially in the South, where the political leaders wanted to take it by force. President McKinley's first call for volunteers from Texas was quickly filled; more than twice as many offered as were necessary to complete the quota. We first furnished three regiments of infantry and one of cavalry, most of which came from the Texas National Guard, which supplied 42 officers and 1,882 men. The second call for volunteers in May was met with as much enthusiasm as the first, and the total enlistment from Texas for the war included 231 officers and more than 6,000 men. It was estimated that more than 4,000 Texans got into the service by joining the regular army, and

in other ways. Roosevelt's regiment of Rough Riders was recruited at San Antonio. The Thirty-third United States Volunteer Infantry, organized at San Antonio under Col. Luther R. Hare, a native Texan, saw service in the Philippines.

The Extermination of Yellow Fever

The two notable influences on Texas coming from the Spanish-American war were, first, the elimination of sectional feeling against the North. It was the first time since the close of the Civil war that this country had been embroiled with a foreign nation, and the volunteers who so readily rushed to the standard from Texas and the other Southern states were often the sons of Confederate soldiers. It was with much enthusiasm that the newspapers North and South declared that the last remnant of ill feeling coming from the Civil war was gone and that sons of Southern and Union soldiers were marching together for the war in Cuba. The second and probably more important direct result traceable to the Spanish-American war was the conquest over the dread scourge of yellow fever. Since the very beginning of the white man's efforts to colonize around the gulf coast, this disease had periodically wrought havoc in Texas, chiefly in the coast towns and in communities near the coast.

During the Colonial days in 1833 it made its appearance at Columbia on the Brazos, which at that time was one of the principal Texas ports, and over one-half of the persons afflicted died with the disease. Between 1839 and 1858 there were six epidemics in which Galveston and Houston suffered. More than once 10 per cent of the population of Galveston died from it in a single year. In 1853 the disease spread from Galveston to Harris, Fort Bend and Brazoria counties. In 1862 one-fourth of the population of Matagorda died from it, and in 1863 it broke out in various places in South Texas, all the way from Sabine Pass to Brownsville. Probably the most severe of all

these epidemics was that of 1867, which immediately followed the fall of the Confederacy and afflicted Texas at a time it was sorely distressed in every conceivable way. A large percentage of the towns along, and sometimes as far as 100 miles from the coast, were visited by the plague, and among its victims was General Griffin, then the overlord of Texas acting under Sheridan. It has been estimated that the victims of this plague exceeded 3,000. While the visitations of the disease were not so frequent after 1867, yet there were periodical recurrences on down through the remainder of the century. At the time of the Spanish-American war every old resident of the coast country lived in constant dread of a repetition of these disasters which they had seen so often, and the younger generation was taught to live in fear of this terrible mysterious disease whose origin was unknown and whose effect was deadly.

When the American soldiers reached Cuba, they were in more danger of death by yellow fever than at war with the Spanish army. Medical science had made no progress whatever in determining either the origin of the disease or any effective method for suppressing it. There was an old doctor in Havana by the name of Finlay who as early as 1881 had read a paper before a medical congress in Washington in which he asserted that yellow fever was transmitted by a certain kind of mosquito called the stegomyia, but nobody paid any attention to Doctor Finlay and he was never able to prove his case.

With our armies in Cuba and soldiers constantly coming in contact with the disease, the situation was daily becoming more desperate and reached so serious a point that the surgeon general appointed a commission headed by Dr. Walter Reed to visit Cuba and investigate its cause and provide means to guard against it. This commission gave serious thought to the mosquito theory, although some of its members were skeptical and unconvinced that it had any merit. Doctor Lazear, one of its members, in order to test it out, permitted a mosquito that had come in contact with a yellow fever patient to bite him, and a

few days later died from the disease. Dr. William Crawford Gorgas, a native of Alabama, who had long been with the regular army, was in Havana at this time and worked with the Reed Commission, with the result that it was soon determined by these investigators that yellow fever was not contagious except as it might be transmitted from an infected person by the bite of a mosquito. But this did not solve the difficulty, for the air of all the tropical and semi-tropical countries was literally alive with millions of many kinds of mosquitoes, and no one could hope to exterminate them. The medical men labored on, and soon confirmed Doctor Finlay's bad opinion of the stegomyia, which was found to be the only species of mosquito that transmitted the disease, and it was found that only the female of the species was guilty. This did not yet solve the difficulty, because there was little, if any, hope of exterminating this entire species of insect, and it was generally thought that, while the discovery might have some results, yet the extermination of the disease would be impossible. But these doctors labored on and made interesting discoveries with reference to this particular kind of mosquito. It was found that it had a distinct individuality and was as different in its habits and tastes from the hundreds of other varieties as the cat is from the tiger. That it was just as fond of the human race as a domesticated animal. That it haunted the abiding places of mankind, and would not be found anywhere it could not come in quick contact with a human being. That it only generated in or near a house inhabited by human beings and in water contained in some artificial object. That it did not lay its eggs in brackish or ditch water. That should the occupants of a house move away these mosquitoes would either follow them or abandon the premises. When examined under the microscope, the stegomyia was found to be totally different in appearance from all other mosquitoes; he was a striped individual, wearing as it were a fancy livery.

Doctor Gorgas at once sent out the slogan that sanitation could utterly destroy this entire species of mosquito, and put a stop to yellow fever forever; that if all vessels or artificial containers where water accumulated and stagnated were kept off the premises they would not germinate. Acting upon this theory, he proceeded to clean up Havana. The great news from Cuba was received with much incredulity, and Doctor Gorgas was at once met by a chorus of laughter, especially from the officers of the regular army, who ridiculed his theory, and offered him little assistance in carrying out his program.

Immediately after the close of the Spanish-American war, the American Government undertook the construction of the Panama Canal. The long efforts of DeLesseps to build the canal and the lonely evidences of his abandoned enterprise, which had failed chiefly because yellow fever killed the laborers faster than they could be imported, lay warningly before our Government when it undertook to succeed where the French had failed. Doctor Gorgas was placed in charge of the medical and sanitary arrangements for the Canal Zone, but his strict efforts at sanitation so annoyed many army officers that they sought his removal. President Roosevelt, faced with the necessity of deciding whether Gorgas was a benefactor or a nuisance, sent for the president of the American Medical Society and laid the question before him, and upon his advice that Gorgas should be sustained, the President did sustain him, and yellow fever was exterminated in the Canal Zone, where it had ravaged for untold centuries and destroyed whole races of people. Doctor Gorgas, in his memoirs, tells an interesting incident where, in a hospital which had been built by the French and was now being used by the Americans, the disease was being mysteriously spread to patients who had not come in contact with it. A close search of the building was made to find where the stegomyia was breeding, and in one room they found a bed where the four posts had been placed in small vessels of water to prevent ants

from crawling from the floor to the bed, and in these vessels the mosquito was germinating and spreading the disease. It has been well said that to Doctor Gorgas more than any other one person is due the credit for the successful construction of the Panama Canal. This interesting story represents one of the greatest triumphs of the medical world, and is not without relevancy to the history of Texas, for if we were yet subjected to the recurrence of this plague as our fathers were, the entire coast country would suffer restrictions and limitations which would seriously retard its development and render it an undesirable habitation.

CHAPTER CXIII

THE GALVESTON STORM OF SEPTEMBER, 1900

On the 8th of September, 1900, a furious hurricane and tidal wave partially destroyed the beautiful city of Galveston, and ravaged the coast from Anahuac to Matagorda, entailing property loss of millions and taking a total of approximately 10,000 lives. That there have for ages been periodic visitations of these hurricanes along the entire Gulf Coast from Florida to Vera Cruz is abundantly proven, and the white man has encountered them since he first came early in the sixteenth century. It was one of these storms that destroyed the fleet with which DeVaca sailed and which threw him upon the Texas coast, where he began his long wandering journey across Texas into Mexico. Rex Dunbar Frazier has written a record of these disasters which might be well known as the "Hurricane History of the Texas Coast." He has chronicled dim accounts of storms in the eighteenth century and clear records of those in the nineteenth and twentieth centuries which have ravaged the coast all the way from the Sabine to the Rio Grande. He tells of how four of LaFitte's pirate ships were destroyed in Galveston Bay in 1818. He tells of an ancient ship which long lay inland forty miles between Matagorda and Copano Bay. Noah Smithwick, who was the blacksmith on the McNeill plantation in Brazoria County in 1829, tells of using the iron from an old stranded vessel for fabricating gin irons and other blacksmith uses. Of this ship he says:

"It lay high and dry in a belt of timber at least five miles back from the Gulf. Its timbers were all rotted, the knotted hearts of two pine trees that had once been its mast alone

remaining. The irons, though encrusted with rust, were in a fair state of preservation. There was nothing to give a clew to the identity of the vessel. It had evidently been there for many and many a long year, driven ashore by a tidal wave."

On the 15th of September, 1875, came the storm which destroyed the beautiful seaport at Indianola. It contained more than 2,000 inhabitants and had been a port of much importance for forty years. So complete was its destruction that no effort was ever made to restore it, and only the cornerstone of the courthouse and some old wells and cisterns now remain to mark its site. The Indianola storm was responsible for the language of an important clause of our Constitution of 1876. The Constitutional Convention was in session at Austin when the disaster occurred, and when news of it reached the capital, Stilwell H. Russell, delegate from Harrison County, who had been reared in Brazoria, offered a resolution remitting to the people of the stricken counties their taxes due for the year 1875, and instructing sheriffs and tax collectors to refrain from collecting any taxes from inhabitants of these counties for that year. Mr. Russell's resolution was referred to the Committee on Taxation, which recommended its adoption. When the matter came before the convention, George McCormick, delegate from Colorado County, offered a substitute instructing the collectors of state taxes for the current year in these counties to receive evidence of the actual necessity in each case, and where it appeared that the citizen was unable to pay his taxes because of the havoc wrought by the storm a special entry should be made remitting to the distressed individual his taxes for the year 1875. The substitute was adopted, showing the intention of the convention merely to remit the taxes for the year 1875, and to remit them only to the individual rendered unable by the storm to pay them. Following this discussion, Article 8, Section 10, of our present Constitution, touching upon taxation, was written to read:

"The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town from the pay-

ment of taxes levied for state or county purposes, *unless in case of great public calamity* in any such county, city or town, when such release may be made by a vote of two-thirds of each House of the Legislature."

The language italicized in this article was added as a result of the discussion growing out of the Indianola storm, and it may be well contended to mean that the framers of the Constitution intended that only taxes for a current year could be remitted on account of such calamity and that the remission in each instance should be to the individual, and it was not intended that there might be a remission over a long period of years to be collected and used for internal improvements.

The entire beautiful coast line of Texas bears the scars of these recurring hurricanes that have damaged it throughout the ages. Can it be that the earthquakes of Japan and California, the volcanoes of Italy and Sicily, the hurricanes that come screaming out of the sea and destroy the habitations of men, cyclones that smite our plains, are the lingering symptoms of those forces which wrought with fire and flood and glacier in the formation of our planet, the afterpains, as it were, of that terrible labor when the world was born? Will in some distant day science learn how to herd the rain clouds over desert lands and destroy the hurricane and tornado before they work their deadly destruction?

CHAPTER CXIV

THE LAST OF THE VETERAN GOVERNORS

For thirty-four years our governors, with two exceptions, were ex-Confederate soldiers—Coke, Hubbard, Roberts, Ireland and Ross all served in the Civil war. Joseph D. Sayers, who succeeded Culberson in 1899, and Lanham, who followed Sayers, were the last of this line.

Sayers was born in Mississippi in 1841, and came with his father's family to Bastrop, Texas, in 1851. He was a student at the Bastrop Military Institute when the war came on, and, full of the fresh vigor of boyhood, left school to enter the army as a private. He was twice wounded, and rose to the rank of major, a title which he has carried with dignity even to this day. He was with Tom Green at the battle of Val Verde, who said of him in his official report:

"During the entire day Lieutenant Sayers reminded me of a hero of the days of chivalry."

After the war he became a lawyer, and at one time practiced with George Washington Jones at Bastrop. In 1873 he was elected to the State Senate. From '75 to '78 he was state chairman of the executive committee of the Democratic party, and in 1875 and 1876 was grand master of the Masons of Texas. In 1878 he was elected lieutenant governor. In 1880 he was first sent to Congress, where he served continuously for eighteen years. His career in Congress earned him a national reputation, and as a reward for his services there he was elected governor of Texas in 1898. He served in Congress with such men as Reagan, Lanham, Mills and the elder Culberson.

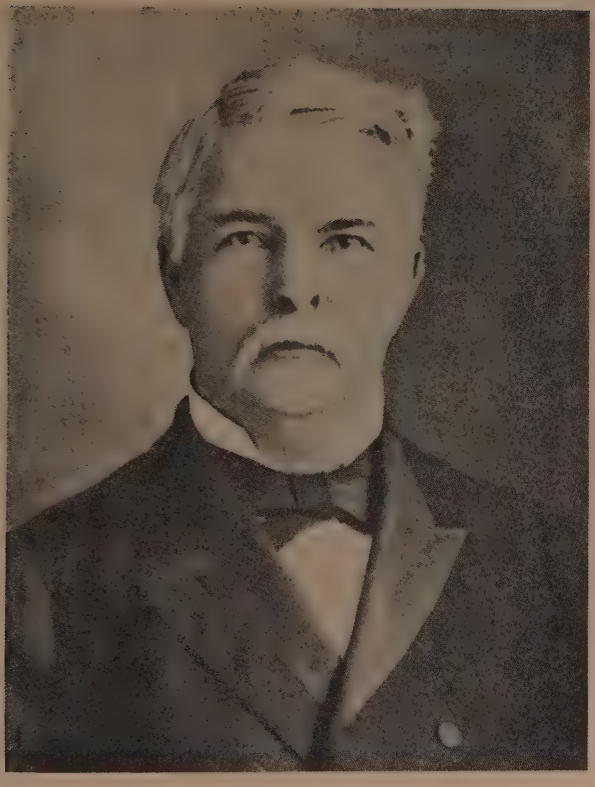
His administration as governor was a model of quiet dignity, and the following editorial from the *Houston Post* of January,

1903, expresses the sentiment of the people of Texas toward this grand old man as he went into retirement:

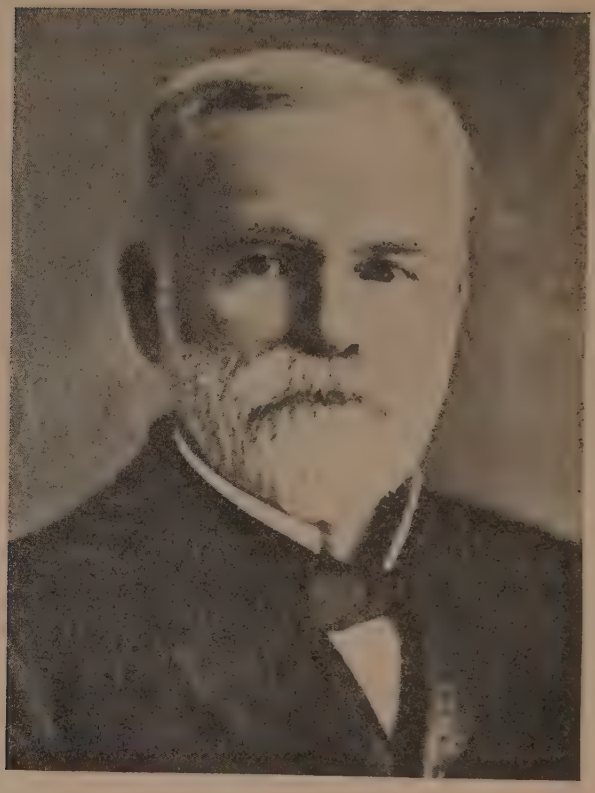
"To those who are attracted only by the spectacular and the heroic, the sensational and the revolutionary in politics, Governor Sayers may have appeared as an indifferent executive. But to those who observe results and measure statesmen by their fruits, who look upon the state government as a simple organism for disposing public affairs orderly and economically, with the least friction of operation and the minimum of distraction, his sterling qualities will appear. The exposition which he modestly makes in this message (his last to the Legislature) must impress the thoughtful citizen with the rare excellence of the passing administration.

"At the close of a long career conspicuous for usefulness and honorable dealing—a career which has brought the reward of public esteem, without the doubtful preferments of vaulting ambition or the selfish emoluments of questionable methods—Texas pays him grateful tribute. He has been a diligent public servant. He has been faithful to every duty, responsive to every demand and true to every trust. Some have won more applause by clattering more noisily across the stage of action. Some have done more startling things. But for unfailing fidelity, for conscientious and efficient work in the business of administration, none has won a more enduring place in the affectionate regard of the people. * * * "

Samuel W. T. Lanham was born at Spartanburg, South Carolina, on July 4, 1846. Like Sayers, he left school to enter the Confederate army and the first years of his young manhood were spent in the campaigns in Virginia and Tennessee and the Carolinas. In 1866 he came to Texas and made his home at Weatherford, where he continued to live until his death in 1908. He was district attorney in 1871 when the Indian chiefs were tried at Jacksboro. At that time he was in his twenty-fifth year, and Lieutenant Carter, who witnessed the drama, paid him the tribute of being "quite an able little fellow." In



JOSEPH D. SAYERS



S. W. T. LANHAM

1882 he was elected to Congress from a district which reached from Parker County to El Paso and embraced ninety-eight West Texas counties. After ten years' service he retired, but in 1898 he was again elected and remained in Congress until 1902, when he was nominated for the governorship. His old comrades realized that he would be the last of the ex-Confederate governors, and when he announced the *Burnett Bulletin* hailed his candidacy with an appeal to the veterans.

"Every man in this county should consider it an honor to have the privilege of voting for that gallant old ex-Confederate, S. W. T. Lanham, for Governor of Texas. He will probably be the last of the old heroes of the lost cause to aspire to this office, and everyone of us should be, and we believe will be, proud to honor him with the largest vote ever cast for a Governor of Texas."

Like Sayers, his administration was a model of conservative dignity which stands in fine contrast with most of those that have come after him.

Up to this time our governors had all been chosen by the old party convention plan. The state-wide primary system commonly known as the Terrell Election Law had now become operative, and our governors and other state officials have since been chosen under these statutes. There has been much discussion of the respective merits of the old and modern methods of choosing our public officials. One way to test the question would be to compare the governors from Coke to Lanham with those that have followed since.

CHAPTER CXV

TWO STALWART SENATORS

Charles A. Culberson was chosen United States senator to succeed Mills in 1899, and two years later the Legislature elected Joseph W. Bailey to succeed Horace Chilton. The careers of these two men have been unusual and spectacular in Texas and in the nation, and deserve more than passing mention.

At the time of Culberson's election to the Senate, he was forty-four years old, had been attorney general and governor of Texas. He was born in Alabama in 1855 and grew to manhood in East Texas and was elected attorney general in 1890, when he was only thirty-five. It fell his lot to defend the Railroad Commission that was created during the administration of Governor Hogg, and he did so both in the local courts and in the Supreme Court of the United States with conspicuous ability. In his first race for governor in 1894, he was opposed by Judge Reagan and S. W. T. Lanham. Both of his opponents had large claims upon the people of Texas for long and conspicuous service, but Culberson conducted a vigorous campaign and was looked upon as the successor of Hogg and Hogg's policies. The State Democratic Convention which convened at Dallas in 1894 was dominated by the supporters of President Cleveland and forced the adoption of a financial platform approving Cleveland's sound money views. This was done at a time when the people of Texas were largely in favor of the free coinage of silver at the arbitrary ratio of sixteen to one, and Governor Culberson, as well as both of his opponents, was thoroughly committed to this policy. Culberson was not deterred, however, from accepting the nomination for governor

upon a gold standard platform, and in the campaign which followed he promptly repudiated the platform and declared his allegiance to the silver dollar of his fathers. After his nomination he was opposed by Judge Nugent, who had contested with Governor Hogg two years before, and he defeated Nugent by a majority of 55,000. Two years later he was nominated without opposition, and was opposed by Jerome Kirby, the populist candidate, whom he defeated by a majority of 60,000. He had great executive ability, and his administration as governor was a very popular one. The term of Senator Mills, who had long been a great political power in Texas, was coming to a close. Mills had adhered to the financial policies of President Cleveland and was denounced in Texas for his opposition to the free coinage of silver, which the majority of the people of Texas looked upon as a holy cause. They regarded all opposition to it as emanating from the monied interests who they charged were interested in curtailing the volume of money. Although our United States senators were still chosen by the Legislature, Culberson took his candidacy before the country in 1898, and soon secured sufficient endorsements in county primaries to show that he was overwhelmingly the choice of the people as against Mills. Senator Mills withdrew from the contest, and ended a long, interesting and faithful career of public service. Culberson's election by the Legislature in 1899 was all but unanimous. His father, David B. Culberson, had long been in public life in Texas and the new senator had the prestige of the great character and ability of his distinguished father. On entering the Senate, Culberson's touch with state affairs was largely lost, and his next twenty-four years were devoted in the domain of national politics. His defeat for the fifth term in the state primaries in 1922 was a matter of genuine regret both in Texas and abroad. The following editorials from the *New York World,* published at the time, fairly illustrate the feeling of the great majority of those who were familiar with the illustrious career of Senator Culberson:

CHARLES A. CULBERSON

"For sixty-three years the Culbersons, father and son, have served the State of Texas. * * * At last, on an issue of religious bigotry, a Culberson has been beaten in Texas, with only the possibility of another opportunity in 'run-off primary.' The victor is the candidate of the Ku Klux Klan. But what a victory: ostensibly it is a victory for the 'native' over the 'foreign' element. In fact it is the temporary success of a mood of bigotry over the older and finer, over the truly native traditions of Texas. For it is the Culbersons who really represent what is native to Texas. They have proved it these sixty-three years. And it is the Klan, with its mask and its imperial titles and its appeal to hatred, which is imported, the alien and the un-American influence."

"Charles A. Culberson for forty years was the darling of Texas politics. More than Bailey and longer than Houston he was the beloved leader of the Lone Star State. For thirteen years after his health failed Texas kept him in the Senate as a matter of pride, and he might have remained there forever had he been in any way able to attend to the duties of his office."

Joseph W. Bailey, who was elected to the Senate to succeed Horace Chilton in 1901, was a fit colleague of Senator Culberson, and it was the proud boast of Texas at that time and during the next ten years that her senators measured up with the old-time statesmen of the South. Texas had for the most part been splendidly represented in the United States Senate since its admission to statehood in 1846. Her first senators were Houston and Rusk. Among those who served after them and before the Civil war were J. Pinckney Henderson and John Hemphill. After the Reconstruction senators passed in the '70s, Richard Coke and Gen. Sam Bell Maxey were sent to the Senate. When Maxey retired, he was succeeded by Judge Reagan, and after Coke the Legislature elected Roger Q. Mills. Immediately following the election of Bailey in 1901, the *Houston Post* carried the following editorial:

"* * * Texas has made two of the most admirable selections for the Senate of any state in the Union. Both are young men, both are brilliant men, both are incorruptible men, both are men of charming personality and both are self-assertive, strong, 'fighting' men, in the better sense of that term. The State will watch their careers with confidence and pride and feel that in the Senate Texas is as strong as the strongest."

Bailey was born in Cophia County, Mississippi, in 1863, was admitted to the bar in his twentieth year, and came to reside at Gainesville, Texas, in 1885. In 1888 there was a deadlock in the Convention which met to nominate a candidate for Congress from the old Fifth District, which embraced Cook County. Bailey was a delegate to this Convention. His splendid bearing, and great intellectual force, together with a mannerism which always won him friends, made him very popular with the delegates, and he would have been nominated for Congress at that Convention but for the fact that he was yet under twenty-five, the constitutional age required for a member of Congress. Judge Silas Hare of Sherman, who had been in the Mexican war and in the Civil war and who was universally known and loved by the people of the Fifth District, secured the nomination and was elected. Two years later Bailey, having reached the constitutional age, announced for Congress against Judge Hare, and was nominated and elected. He served five consecutive terms, during which time he became the foremost Democratic member and the leader of his party in the Lower House. Senator Chilton's term would expire in 1901, and in 1900 Bailey announced as a candidate for Chilton's place. As had happened between Culberson and Mills two years before, they went before the people, and the early county primaries showed that Bailey was the popular favorite, and Chilton withdrew. At the time of his election in 1901 there were whisperings about his connection with the Waters-Pierce Oil Company and charges were made which led to a legislative investigation by the same Legis-

JOSEPH W. BAILEY

lature that elected him. The course of the Waters-Pierce litigation through the next few years connected him more and more with the affairs of Pierce, and resulted in the bitter fight upon him in 1906, when he was elected the second time. At the end of the second term, he concluded that this antagonism had so impaired his usefulness and injured his influence in the Senate that he would no longer continue in public life. It was the open boast of Bailey's admirers, both in Texas and throughout the nation, that he was the ablest man who had been sent to the Senate from the South since the days of John C. Calhoun.

CHAPTER CXVI

ANTI-TRUST LEGISLATION IN TEXAS

Next to the railroads, the anti-trust legislation and litigation was the largest and liveliest public topic between 1890 and 1910. While combinations in the form of business or trading and corporate trusts are products of modern enterprise, yet monopoly and its evils are as old as civilization. Solomon said, "He that withholdest corn from the people shall be cursed but blessings shall be on the head of him that selleth it."

Combinations for the purpose of increasing or maintaining prices are as old as Assyria or Egypt, and these ancient governments were often confronted with the need of suppressing them. The Roman emperors were compelled to take action to prevent monopoly, which unduly increased the price of clothing and food, and they were compelled to take notice of combinations of workmen and contractors constructing public buildings. Monopolies became the subject of legislation in England as early as the time of Edward VI, and it is from these old statutes leveled against them that we have inherited the principles of the common law which are so often cited against such combinations. But in England the sovereign claimed the power to suppress or override these statutes and to grant monopolies. Hume, in his *History of England,* calls attention to the fact that Queen Elizabeth felt impelled to reward many of her subjects for good services rendered the Crown, and being unable to do so from the treasury, which was always empty, she had recourse to the plan of granting letters patent to her favorites, assigning them a monopoly in the trade of various articles of commerce. These grants had so multiplied in the course of her reign that they

covered practically everything that the English people used in their business and domestic life. The legality of these royal patents was questioned, and as early as 1602 the English courts declared them void upon broad principles of public policy. In an early English decision they are condemned in this forceful language:

"They tend to the impoverishment of divers artificers and others who before by the labor of their hands in their art or trade had maintained themselves and their families who now will of necessity be constrained to live in idleness and beggary."

The Constitution of the Republic of Texas that was hurriedly written in March, 1836, while the Mexican army was reducing the Alamo and moving into the heart of the colonies, contained in its Bill of Rights the declaration that "perpetuities or monopolies are contrary to the genius of a free government and shall not be allowed." This same provision may be found in every subsequent constitution that has been adopted in Texas.

Little difficulty was encountered in these matters until some years after the Civil war. The modern trust is said to have had its origin in the activities of the Standard Oil Company, the powerful and baneful influence that dominated the railroads during this period. Its methods were as reprehensible as ordinary brigandage, and brought on a political warfare which not only resulted in railway regulation but gave us our anti-trust statutes, State and Federal. The persons who manipulated this gigantic enterprise conceived a plan of having separate corporations place their stock with trustees, a kind of holding organization, so that several corporations would be under one management, and could avoid competition, and their earnings would become a common fund for distribution through these trustees. These trusts could control all of the business of the several corporations, regulate the price of products, fix railroad rates, and a great hue and cry was raised against them throughout the country between 1876 and 1890. In 1887 Attorney General Hogg brought suits against the leading insurance companies

doing business in Texas, alleging an unlawful combination to fix insurance rates, and the next year he brought the celebrated suit against the Texas Traffic Association, which was a combination of all of the railroads doing business in Texas, to fix and regulate railroad rates. There was then no statute, State or Federal, to aid him in this legislation, but he relied upon the principles of common law, which were declared sufficient to dissolve the Traffic Association.

In 1888 the Farmers Alliance at its Dallas Convention recommended "the passage of a law prohibiting the formation of trusts and combinations by speculators to secure control of the necessities of life." Other party platforms during this period contained similar demands. This sentiment was given a fresh impetus about this time by the organization of a trust to control bagging, the material used in baling cotton. The farmers loudly complained against the operations of the bagging trust and it was proposed that the state establish a bagging factory at the penitentiary. The beef combine manipulated by the packers was controlling the price of cattle and the cattle people of Texas demanded relief against it.

The result was the passage in 1889 of the first anti-trust law in Texas, which was the second ever passed in the United States. Four weeks before Governor Ross signed the Texas bill a similar statute had become a law in Kansas. Tennessee and Michigan passed similar statutes the year following, and in 1890 the Federal Government enacted the Sherman anti-trust law. The first Texas statute was introduced by Albert Stevenson of Weatherford, and passed the Senate by unanimous vote, with only one vote against it in the House. At that time several anti-trust statutes were pending before the Federal Congress, and Senator Reagan took the Texas act and offered it for passage as a substitute for Sherman's bill.

The act passed by the Kansas Legislature was aimed principally at the beef combine, and the Legislature of that state extended an invitation to the governors of other states for a

convention to consider this subject. It was held at St. Louis in March, 1889, and endorsed the anti-trust statute that was then pending in the Texas Legislature. This first statute was thought to be very drastic in its day but was mild as a May morning compared with the sweeping and all-inclusive provisions of others that have followed it. The forfeiture of a corporate charter and a fine of from $50 to $5,000 and imprisonment from one to ten years in the penitentiary were denounced against the violators of the law. Each day was to constitute a separate offense, and it was made the duty of the attorney-general and district and county attorneys to institute proceedings. The thirteenth section of the original act exempted agricultural products and live stock while in the hands of the producer.

In 1895 it was discovered that this statute did not embrace insurance companies and a new one was passed pronouncing penalties against those who would make combinations of those things which were "aids to commerce," this indefinite expression being intended to cover everything not specifically named. The statute contained an exemption of labor organizations. The growth of corporate wealth continued unabated and persons who would form combinations of this character paid little attention to these early statutes, so it was thought best to reenact them, and put more teeth in them. In 1899 an entirely new statute was passed which was made cumulative of the former act. It was lengthy and verbose and contained many long and involved sentences which were evidently drawn with an intent to terrify. In order to prevent a combination to reduce prices and destroy a competitor, manufacturers of raw material were prohibited from selling below cost or giving away their products for the purpose of driving out competition. This act called for an affidavit to be filed by any foreign corporation seeking to do business in Texas, in which its president or secretary should declare under oath that the corporation had not been a party to any trust in this state or elsewhere within the preceding twelve months. In order to thoroughly outlaw such corpora-

tions, persons doing business with them were not required to pay for what they had bought and might even recover the price after they had paid it. In order to induce the officers of the law to be diligent in enforcing these statutes district and county attorneys were to receive one-fourth of the penalties recovered. One would think that the statute of 1899 had reached the high-water mark, but after the Supreme Court of the United States held the Illinois statute invalid because it exempted agricultural products and labor combinations, our Legislature set itself to the task of writing another and more effective statute. In this latest act a trust was defined as "a combination to create or which may tend to create restrictions, to fix, maintain, increase or reduce prices, to prevent or lessen competition, to regulate, fix or limit output, to abstain from engaging or continuing in business."

In 1907 the statute was further amended so as to give large powers to the attorney-general in gathering information for the prosecution of violators of the law. He was to have authority to examine the books and records of any corporation in the state, and under this commission he could demand and seize all the records of such a corporation and from the evidence thus gotten prosecute a suit and recover a judgment for the penalties pronounced by the statute. He could summon any officer of the corporation before a commissioner and take his testimony and compel him to give his testimony. This testimony could be used in the litigation against the corporation.

There have been various other amendments of these statutes all designed to make them more drastic and their enforcement more certain.

CHAPTER CXVII

ANTI-TRUST LITIGATION

Attorney-General Culberson began in 1892 the long series of prosecutions which have gone forward under these statutes down to our own times. Various attorneys-general have instituted suits for penalties and forfeitures against tobacco companies, insurance companies, cotton oil mills, ice manufacturers, brewers, flour mills, book companies, binding companies, packing house concerns, dairy companies, grain dealers, cattle corporations, and railroad companies. In most instances the state has succeeded in either forcing a compromise and the payment of large penalties or in recovering judgment. The statutes are so drastic and far-reaching and the penalties so terrible, that it has often happened that a corporation would not risk litigation even though there were doubt as to its guilt. The most celebrated of this litigation was the long series of suits and criminal prosecutions against Henry Clay Pierce and the Waters-Pierce Oil Company. They began in 1894 and went on intermittently for nearly fifteen years. At one time or another many of the leading men in Texas were involved in them, and Senator Joseph W. Bailey was so connected with them they became a large issue in state politics and extended in a way into national politics. Bailey's high place in the state and nation made the controversy a sensational one, and for several years it rocked the state as few controversies had done since the Civil war. The wide reputation of the parties involved and the large recovery that was finally awarded against the corporation, together with the fact that the prosecutions became dominant state issues for several years, justify a more than passing notice of this unusual episode in our state history.

Pierce was an outstanding figure in the oil world and lived in St. Louis. Prior to 1870 he had organized a corporation for the sale of petroleum products. In that year he first came to Texas in an effort to develop a market for his product. He journeyed through the state on horseback, carrying his samples and lamps on a pack mule. He forded rivers, was mired in swamps, devoured by mosquitoes, and stricken by fever, but nevertheless he went backwards and forwards through the state in a persistent effort to establish markets for kerosene oil. The result of his first endeavor was the establishment of agencies in the leading cities, and although the outlook was not encouraging, yet he belonged to that type of modern business promoters who do not acknowledge defeat. About 1872 he organized the Waters-Pierce Oil Company and patented and put into use the first iron barrels ever used in marketing oil. He was also the first to design and put into use the iron tank wagon for the rural delivery of oil. Prior to 1880 he had come into conflict with the Standard Oil Company, which acquired from his associates 60 per cent of the stock of the Waters-Pierce Oil Company, and there was a long conflict between him and the Standard. In November, 1894, the grand jury of McLennan County indicted John D. Rockefeller, John D. Archbold, Henry M. Flagler, William Rockefeller, Benjamin Brewster, Henry H. Rogers, Henry Clay Pierce, and several other leading characters in the oil world. Among those indicted were E. T. Hathaway and William T. Hawkins, agents of the Waters-Pierce Oil Company in Texas. The charge against them was that the Waters-Pierce Company was controlled by the Standard, and that they were engaged in a conspiracy in the restraint of trade in violation of the anti-trust law of 1889. Only the local agents within the state were arrested, the governors of the other states in which the non-resident defendants lived having refused extradition for them, although Pierce later came into Texas and submitted himself to the jurisdiction of the court. Hathaway was tried in the District Court at Waco, and the proof showed that

the Waters-Pierce Company had been making exclusive contracts, giving rebates, and reducing prices, and doing various other things to suppress competition, and after having eliminated competition had increased the price of oil so as to recoup losses. The officers of the Waters-Pierce Company, like the managers of most corporations, did not believe that the Texas statute of 1889 was valid, and they decided to make a test case out of Hathaway's prosecution. He was convicted and fined $50. Since he was prosecuted for a felony and the statutes then existing did not permit bail pending an appeal in a felony case, he remained in jail while the case was on appeal, and thus became the first Texas martyr in the resistance of the anti-trust laws. The Court of Criminal Appeals reversed the judgment against him, and the other indictments were subsequently dismissed. The county attorney of McLennan County had in the meantime, however, started penalty suits against the corporation, and since the statute then in force fixed large attorney's fees which were to be paid out of the recovery of penalties, there was quite an incentive to vigorously prosecute these penalty suits, but no recovery was had in this particular case. In 1896, and while the Waco case was still pending, Attorney-General Crane filed suit in the District Court of Travis County against the same company, and the trial resulted in a judgment cancelling its permit and ousting it from the state. This case found its way to the Supreme Court of the United States, where the judgment of ouster became final in March, 1900.

Mr. Pierce and his counsel then conceived the idea of dissolving the corporation and organizing a new one which would be free from this judgment of ouster, and following this plan all of his stockholders agreed to surrender their holdings in the old company and take certificates of stock in the new one, and when it was incorporated under the same name it presented its application for admission to do business in Texas. Attorney-General Smith, after fully considering the matter, determined that there was no way to prevent its readmission, and advised

the secretary of state to issue it a permit. In order to procure this permit Mr. Pierce was compelled to make the statutory affidavit required by the act of 1899 that the corporation was not and had not been a member of any unlawful combination against our anti-trust laws. The result of these transactions was that the Waters-Pierce Oil Company went out of existence, and that a new corporation with the same name chartered under the laws of the same state immediately began doing business in Texas, using the same agents and the same equipment that had been employed by the old company during all the years that it had been under prosecution. These facts found their way into the newspapers, and caused considerable criticism of the state authorities, which gathered force as it went along until it burst into the fury of a state-wide political storm. When the State Bar Association met at Galveston in July, 1900, ex-Governor Hogg, who had been the oustanding advocate of corporate regulation in Texas, took occasion to vigorously attack the action of the attorney-general and the secretary of state in granting this permit. With his usual vigor, he pointed out that the new corporation with the same officers, agents, offices, drivers, and wagons that had been used by the old, was doing business in Texas, and that in the method followed the effect of the prosecution had been nullified and the law had been entirely evaded. Attorney-General Smith and the secretary of state hastened to Galveston on the second day of the session to defend their course. The debate which was begun at Galveston went on and on in the newspapers, in political conventions, in the Legislature, and in public campaigns from year to year. In August the State Democratic Convention met at Waco, and this furnished a fine forum for the discussion of this new political topic. It was now known that Senator Joseph W. Bailey had been instrumental in inducing the attorney-general to grant the permit for the readmission of the company in Texas. He and Attorney-General Smith had been schoolmates in Mississippi, and it was charged that the senator had unduly used his influence in procuring the attorney-

general's favorable opinion. However, the argument seemed sound that since Pierce had made the statutory affidavit, the state authorities were within the law in granting the permit. At that time our statutes had not been so written as to prevent an outlawed corporation from using its assets in reorganization and going forward as the rechartered company was doing. At the Waco Convention ex-Governor Hogg renewed the attack that he had made at the State Bar Association and he was aided by ex-Attorney-General Crane and they and those who believed with them attacked the readmission of the company as a fraud on the state. They charged that the proceeding that had been had in Missouri for the dissolution of the old company and the incorporation of the new was not in fact a dissolution and reincorporation but that the new company was identical with the old one.

Bailey, who was then at the height of his political career and one of the outstanding figures in the national Democratic party, vigorously defended the course that had been taken by the state authorities. A resolution to condemn their action as fraudulent was voted down.

The next year Attorney-General Bell filed suit in the District Court of Travis County seeking to enjoin the new company from doing business in Texas, but the case was dismissed. The county attorney of McLennan County got busy again and filed a suit at Waco for the recovery of large penalties, but a judgment was rendered for the defendant.

The result of this agitation caused a legislative investigation in 1901 which involved charges against Senator Bailey, but he was exonerated and the very Legislature that investigated and exonerated him elected him to the United States Senate to succeed Horace Chilton. Smith, the attorney-general, died in February of this year. The Waters-Pierce Oil Company continued to do business in the state, and in 1906 Attorney-General Davidson brought another ouster injunction and penalty suit against it, reopening the question of fraud in obtaining its

permit and renewing all of the charges that had been urged against the ousted company in the old litigation which began in 1896, adding thereto a new assortment of alleged high crimes and misdemeanors. In the meantime the District Court of Travis County indicted Henry Clay Pierce for perjury made in the affidavit for the readmission of his company to the state in 1900. The trial of the penalty suit was a highly sensational one and resulted in a judgment for the state for $1,623,900 in penalties. A receiver was appointed for the corporation pending an appeal and after the case had gone through the Appellate Courts and to the Supreme Court of the United States, it was affirmed in 1909 and the judgment collected. The property and business of the Waters-Pierce Oil Company in Texas were sold to satisfy the judgment and were purchased by Samuel W. Fordyce of St. Louis, who with his associates organized the Pierce-Fordyce Oil Company, which in due time procured a permit to do business in Texas and has since continued to operate here.

The criminal prosecution against Pierce was brought to trial by a jury in Travis County, and he was acquitted of perjury in December, 1909.

Many more suits have been prosecuted by succeeding attorneys-general and often large penalties recovered, and to this day our anti-trust statutes stand in full force. The railways and insurance companies have escaped the effect of these laws by submitting to governmental regulation, and other industries are seeking such regulation to escape competition. The idea of the anti-trust law is to keep competition in full force and let prices be regulated by a competitive struggle for business. But it was long ago demonstrated in the case of railroads, and other industries as well, that unrestrained or cut-throat competition was ruinous to the industry and while for a time the public might get a benefit in low prices, yet this benefit was often lost in the impairment of service and destruction of the competing agencies.

It has been demonstrated that the industrial greatness of America is largely due to the genius for organization and the economic saving in mass production. This mass production of finished products under intelligent centralized management is essential to enable this country to compete in the markets of the world where cheap labor prevails.

But what is the solution of the problem and how can we permit great combinations to effect cheaper mass production and escape the evils of monopoly at the hands of these mass producers? Is it governmental regulation of all prices, or must it await that distant day when our captains of industry will be so just and benign that they may be trusted to form great combinations without the danger of oppressive monopolies?

Suffice to say that the temptation to take excessive profits has not been eliminated from this class of individuals and remains a menace today as it has ever been since the time of Solomon.

CHAPTER CXVIII

PROHIBITION

Early Liquor Laws—Pioneer Efforts at State-wide Prohibition —The Prohibition Campaign of 1887—Thirty Years of Prohibition Agitation.

The largest public question in Texas during the first two decades of the century was prohibition. The controversy became so acute that it entered into every other issue that arose. Not only were candidates for the governorship supported and opposed as they were for or against prohibition, but the same was true of all public officials down to the mayors of cities and towns and even school trustees. The heated debate extended to and influenced legislation on subjects entirely foreign, and made the deliberate consideration of public questions on their merits very difficult.

Illustrating the frenzy to which this discussion ran, a prohibition meeting was held in 1905, in the county courthouse at Hempstead, in Waller County, at which the two factions in the community were present. It resulted in a wholesale shooting in which John M. Pinckney, a resident of Hempstead, then a member of Congress from the Houston District, was slain.

The liquor interests, chiefly financed by the brewers in and out of Texas, controlled the state elections from 1910 to 1916, and their last triumph was the election of Governor Ferguson in 1914 and his reelection in 1916. Then came the war in 1917 and national prohibition in 1918, followed by state-wide statutory prohibition, and the awful problem ceased to be a state issue and passed into the realm of national politics. After a fight of nearly fifty years, the churches and temperance societies,

aided largely by the women of the country, closed the saloon and outlawed the hideous liquor traffic, only to usher in the era of the bootlegger who flourishes in an atmosphere of utter lawlessness. Lord Tennyson, after contemplating the bloody tyranny of the Cæsars and that of the Popes of the Middle Ages, was led to exclaim:

"Rome of Cæsar, Rome of Peter,
Which was crueler, which was worse."

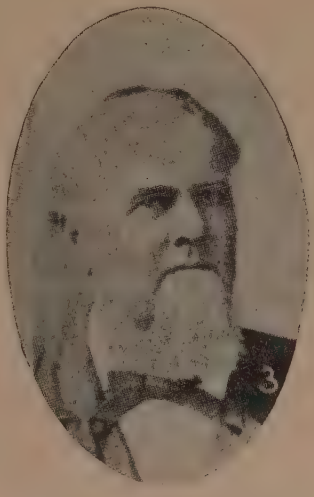
Early Liquor Laws

Under the Mexican regime, and during the colonial days, the unrestrained sale of liquor was just as common as that of groceries or any other merchandise. The pioneer town usually had a saloon first and other stores afterwards, and churches long afterwards. Governor Lubbock, in his *Memoirs*, tells of his first advent to Houston in the autumn of 1836, when he landed at the foot of Main Street and walked up through pines which skirted it on either side, he found a number of large tents, the only evidences of habitation, and the largest of these was a saloon. In 1880, when Houston had a population of 17,000 and only twenty-five churches, it had thirty-seven saloons. The only regulation during the colonial days was found in revenue statutes, levying an occupation tax on merchants who retailed liquor. In 1854 the Legislature of Texas sought to grapple with the problem in an original way, and passed a statute providing that after August of that year no license to sell intoxicating liquors in quantities of less than a quart should be granted in any county without the consent of the people of the county. The governor was instructed to call an election of "for a license" or "against a license." Provision was made for elections to be held every two years if the people desired to test any change in sentiment. The election was duly called, and of the forty-one counties voting on the issue and reporting to the secretary of state, thirty-five voted against the issuance of licenses for the

retail of liquor in quantities less than a quart, and the other six voted in favor of license. An attack was made on the validity of this statute in the case of State vs. Swisher, reported in 17 Texas 441. The Supreme Court held that the law was unconstitutional; that this method of legislation not being specifically authorized by the constitution of 1845, the Legislature was without power to delegate the question to the electorate.

The first statute which required saloons to be closed on Sunday was passed in 1866. The constitution of 1869 gave the

E. L. Dohoney



Dr. James Younge

Legislature power to prohibit the sale of intoxicating liquors in the immediate vicinity of a college or seminary, provided said college or seminary be located other than at a county seat or the state capital. It was not thought possible to run a county or state government without the essential auxiliary saloon. When the delegates met to frame the constitution of 1876, E. L. Dohoney of Lamar County, who is properly known as the father of prohibition in Texas, was a member, and while he did not dare espouse a prohibition provision, he modestly sought the

insertion of a local option clause. He had been a member of the Legislature from 1870 to 1874, and had vainly urged anti-liquor legislation. It is said that during his candidacy for the position of delegate to the 1876 Convention he made the first prohibition speech ever heard in Texas. Early in the session Mr. Dohoney drew up a resolution providing for local option, and it remained before the convention for more than three months with apparently little chance of its passage. He apologized for the provision that it did not commit the state to prohibition, but merely adopted the good old Democratic doctrine of local self-government and left to the people of a community to decide whether saloons should be licensed or prohibited. He finally secured the aid of Judge Reagan, Governor Stockdale, Colonel DeMorse, W. K. Homan and others, and when the question came to a vote in the last days of the convention forty-five of the delegates present voted for the provision and fifteen against it. This provision, Article 16, Section 20, merely provided for the submission to the people of any locality the question whether they would license or prohibit saloons. The first election held under this provision was in Jasper County, which adopted local option shortly after the Constitution was ratified in 1876. It was followed by Rockwall County in 1877. Between 1876 and 1887 forty local option campaigns were waged in as many counties of the state. Only three of these were favorable to local option.

Pioneer Efforts at State-Wide Prohibition

Temperance organizations had been active in Texas in a small way for many years but had made little impression. Nothing but the untiring zeal and crusader character of the kind of people who encourage such movements could have enabled them to carry on. In 1854 Dr. James Younge visited Texas and spent some nine months delivering temperance lectures throughout the state. In 1859 he came to Texas to live, and for eighteen years

was one of the great leaders of the temperance movement. He organized fifteen hundred Temperance Councils and eight hundred Bands of Hope, the juvenile societies of the order.

In 1870 Dr. R. C. Burleson and others organized at Waco a grand council for the state, pledged to further the temperance cause. The society worked to reclaim inebriates and to create public sentiment against the liquor traffic. In 1887 there were seventy-four local councils of the order in Texas, with an aggregate membership of over sixteen thousand.

In 1882 Colonel Dohoney was instrumental in having Frances E. Willard, then president of the National Women's Christian Temperance Union, come to Paris, Texas, and make a short journey in the state. When she visited Paris they were unable to procure any church for her meeting because of the great influence of the liquor traffic and because of the prejudice that prevailed with many persons against a woman appearing upon a public platform. Unable to procure a church auditorium, Colonel Dohoney rented the Babcock Opera House, where, on March 9, 1882, Miss Willard made the first Women's Christian Temperance Union address ever delivered in Texas. Dohoney financed the entire cost of her trip to the state and her itinerary in the state. One of the local pastors at Paris was present at her address at the opera house; and was so impressed with her message that he opened his church to her for the evening service, at which she spoke to a crowded house. After this service, the first Women's Christian Temperance Union chapter was organized in Texas at the home of Colonel Dohoney. Mrs. S. B. Maxey, wife of United States Senator Maxey, was president of this first organization and Mrs. Dohoney was treasurer.

In 1884 Colonel Dohoney led a movement which placed an electoral ticket upon the ballot in Texas favoring the candidacy of St. John of Kansas, the first prohibition candidate for president of the United States. While these electors polled a very small vote here and elsewhere, yet St. John received 50,000 votes in the State of New York. Cleveland carried New York in this

campaign by a narrow majority of only 1,300 votes, and it has often been said upon good authority that the defection from the Republican ranks caused by St. John's candidacy resulted in throwing New York to Cleveland and his election to the presidency. In September, 1886, the first prohibition state convention of Texas was held at Dallas. One of the leading spirits in this movement was Dr. J. B. Cranfill, then editor of the *Gatesville Advance*. Next to Colonel Dohoney, Doctor Cranfill, who still lives, has been the great outstanding prohibition leader in Texas. As early as 1883 his paper had become widely known as an advocate of temperance and prohibition. Doctor Cranfill is a native Texan and the son of a Confederate soldier, born and bred Democrat, and the first to devote his efforts towards having the Democratic party either espouse prohibition as a principle or submit the question to a vote of the people. He attended the Democratic convention at Houston in 1884 and introduced a resolution pledging the party to submit a prohibition constitutional amendment to a popular vote. A German delegate from San Antonio immediately moved that the resolution be laid on the table and that Doctor Cranfill be laid under the table. Amidst much merriment the resolution of the German delegate was adopted. Two years later Doctor Cranfill sought to go as a delegate from his county to the State Democratic Convention, but was defeated by the saloonkeepers at Gatesville. Notwithstanding his defeat, he attended the convention, and tried to persuade various delegates to offer his resolution which had been so contemptuously turned down two years before. He was unable to find any delegate attending the state convention at Galveston who would even offer this resolution by request. Seeing that efforts to further the cause in the Democratic party were hopeless, Doctor Cranfill issued a call for a state prohibition convention, which was held at Dallas in September, 1886, and which nominated Colonel Dohoney for governor. The total vote that the ticket mustered was slightly less than 20,000. In May, 1892, Doctor Cranfill was nominated by the prohibitionists

Dr. J. B. Cranfill

for vice president of the United States. In that year the ticket headed by Bidwell of California for president and Cranfill for vice president polled over 250,000 votes, the largest vote the national prohibition party ever polled.

The persistent efforts of a few men like Colonel Dohoney and Doctor Cranfill, aided by the ministry and the women of the state, furthered by the fact that the prohibition vote was increasing from year to year, finally brought sufficient pressure to bear upon the Legislature of Texas in 1887 to submit a prohibition amendment to the popular vote of the people, and this brought on the celebrated campaign of 1887.

The Prohibition Campaign of 1887

George M. Bailey, in his *Life of Governor Hogg,* gives a graphic description of this campaign:

"None like it had been seen in Texas since the days of Coke and Davis in 1873. For the time being every other issue was forgotten. The Christian ministry of the state mustered into action all of its forces. Every community was divided into hostile camps and the ordinary pursuits of the people became matters of secondary concern. Politicians not in office were quick to take sides. Ultimately every officeholder was called to state his position and in most cases took an active part in the campaign. George Clark of Waco became the leading proponent of the anti-prohibition cause. The prohibition leader, Dr. B. H. Carroll, pastor of the First Baptist Church of Waco, was the greatest of his denomination in Texas. He was a man of tremendous power and as a pulpit orator had few equals. In physique and countenance he would attract attention in any gathering or council. Of gigantic stature, strong features, impressive dignity and a most magnetic personality, he was by nature a great leader of men. The women, wives, mothers, sisters and daughters, were tireless and intrepid supporters of the white ribbon. Hundreds of preachers thronged the surging

battleline in a frenzied onset against the saloon. Men whose fame will live for generations to come in Texas took their places on the firing line."

Judge Clark had the aid of Attorney General Hogg, Roger Q. Mills, Former Governors Lubbock, Throckmorton and John Ireland, all enlisted against prohibition. Other prominent personages who made the same alignment were Thomas J. Brown, afterwards chief justice of the Supreme Court, A. W. Terrell, John Hancock, Horace Chilton, Charles A. Culberson, and many others of state and national fame. Governor Ross threw his influence with the antis. But Doctor Carroll was not without an influential following. He had aligned with him the great John H. Reagan, David B. Culberson, ex-Senator Maxey, Judge John L. Henry, Thomas L. Nugent, William L. Crawford, S. W. T. Lanham and a host of influential and popular leaders. Joseph W. Bailey of Gainesville, who had recently come to Texas from Mississippi and who was destined to a political career in Texas, made his public debut as a supporter of prohibition. Doctor Cranfill moved the *Gatesville Advance* to Waco, where it was issued as a daily and weekly, and was the leading journalistic advocate of prohibition.

The great opposition to the amendment on the part of most of these men was not favoritism for the saloon or the liquor interests, but was an adherence to the old democratic doctrine of non-interference in affairs which pertained largely to the individual. They declared against sumptuary laws of any kind or character. We had not yet reached that period of progressive democracy that has come upon us in which the Government regulates everybody and everything, and there was a well-defined thought among the anti-prohibition leaders of that day that the Government was best which governed least. Public interest was aroused to a fever heat. It is estimated that in one audience which Attorney General Hogg addressed in Dallas there were 15,000 people. But the anti-prohibition propaganda was not all from principle. Money poured into the state by

thousands from the brewers and distillers for the corruption of the electorate.

The election was held in August and resulted in a vote of 220,000 against the amendment and 129,000 favoring it. Of the 190 counties voting, only twenty-nine gave a majority for prohibition and they were mainly sparsely settled. Only three counties south of the thirty-first parallel gave prohibition majorities, and they were by very small margins.

It was thought that the question was dead, and in fact this substantial result weakened its force for many a year. But its soul, went marching on.

Thirty Years of Prohibition Agitation

The prohibitionists were unable to muster a sufficient force to conduct another statewide campaign for more than twenty years, but in the meantime local option was gradually encroaching and communities, precincts, and counties were one by one voting out the saloon. In 1908 sufficient pressure was brought to bear to cause the Democratic Executive Committee to submit a prohibition amendment, and while the question was again debated with much fury it lacked much of the grandeur of the old campaign of '87. In this election prohibition was defeated by a vote of 145,000 for and 141,000 against the submission of an amendment. One hundred fifty-four counties gave majorities in its favor, while only seventy-two gave majorities against it. It is estimated that the brewery and liquor interests spent a million dollars to carry this campaign, and the prohibitionists believed that they were counted out by flagrant frauds.

The near success of this election gave the prohibitionists renewed courage, and they induced the State Democratic Convention of 1909 to recommend a further submission, but the Legislature, by a majority of two votes, refused to submit the amendment to the people. The following year, 1910, a petition signed by over 53,000 people was presented to the Democratic

Executive Committee asking for another prohibition vote, and there was another election in July, 1911. It was again defeated, by the narrow margin of 6,000 votes, 231,000 for and 237,000 against. There was a loud cry of fraud against this election, and the charge was made, and generally believed, that the liquor interests had spent another million dollars to defeat prohibition in 1911.

The activities of the Texas Brewing Association, aided by outside brewers who did business here, defeated prohibition from 1908 to 1915. For many years they kept an organization to fight local option, and in every election anywhere in the state they sent their hired speakers and paid workers. This aroused much bitterness against them and brought on an investigation of their records in 1915, which resulted in a suit against them filed by Attorney General Looney which brought out some startling facts. It was shown that the Texas Brewing Association had raised from an assessment made on its members on the basis of so much per barrel, $2,060,000 between 1902 and 1911, and that these sums and much more gotten from other sources had been spent in Texas elections. They had supported Colquitt for governor in 1910 and Ferguson in 1914. They plead guilty in Attorney General Looney's case, and paid a fine of $281,000.

After the declaration of war in 1917, the Federal Government established training camps for soldiers at many places in Texas, and an appeal was made to Governor Hobby and the Texas Legislature for a statute that would eliminate saloons at those places where training camps were maintained. In the meantime, however, the Federal Government had submitted the nation-wide prohibition amendment to the states, and on the 28th day of February, 1918, the Texas House of Representatives, by a vote of seventy-two to thirty, and the Senate, by a vote of fifteen to seven, adopted the Federal amendment for Texas. Four days later the Legislature passed a statewide prohibition law. It had been generally conceded since 1886 that statutory prohibition without a constitutional amendment would be invalid,

and every effort theretofore had been to bring about such an amendment but the Legislature, in the emergencies of the war, passed a statewide statute, and its validity was sustained by the Court of Criminal Appeals in Ex Parte Davis, 215 Southwestern 341. At the time that statewide prohibition was adopted in 1918, 199 out of the 252 counties in Texas were dry as a result of local option elections, forty-three were partially dry and only ten counties were without prohibition areas. The capital city of Austin, with a population of 34,000 people, had seventy-seven saloons.

The election of Ferguson to the governorship in 1914 was the crowning triumph of the liquor interests in Texas politics. Thomas H. Ball of Houston, who had been a member of Congress for several terms and a leading figure in Texas public affairs for many years, was the leader of the prohibition forces and his announcement for governor with their support seemed to assure his election. He had the support of a majority of the leading men in the state and of all the great daily papers. There were several anti-prohibition candidates, among them James E. Ferguson of Bell County, a man past forty and comparatively unknown. There was a move among the antis to center on one man and eliminate all others so that their candidate could have an open field against Ball. But Ferguson let it be known that he would not be eliminated and his persistence resulted in the withdrawal of the several other anti candidates and, backed by the brewers, he defeated Ball and began a long career in public life, which has brought endless strife to Texas. That the liquor interests spent large sums to elect him in 1914 is well known. When his impeachment occurred in 1917, it was shown that he had borrowed $156,000 from some source which he steadfastly refused to divulge. Two years later it was disclosed that this loan came from the brewers of Texas and that it had never been repaid.

CHAPTER CXIX

THE IMPEACHMENT OF JAMES E. FERGUSON

Few men in the history of Texas have had so spectacular a career as Ferguson. Few men during the nearly one hundred years of our national and state history have been so signally honored. First elected by the anti-prohibitionists, he entered public life with fair promise of high success. He was reelected at the end of his first term without serious opposition but almost immediately after his second inauguration the storm broke which has continued to this day. Shortly after the convening of the regular session of the Thirty-fifth Legislature in January, 1917, members of the House began to voice charges against him. They finally culminated in the appointment of an investigating committee which made a report on March 15, 1917, sustaining several serious and forbidding charges against the governor, among them that he had misappropriated public monies for the maintenance of the governor's mansion; that he had approved accounts for articles purchased for his personal use and the use of his family and household out of public money; that he had knowingly permitted the officers of the Temple State Bank to violate the statutes in making excessive loans to him and for his benefit. Many of these charges had been openly talked for months, and the principal defense which Ferguson offered was that they were publicly known at the time of his reelection, and that whatever, if any, irregularities they presented had been condoned by the people who had reelected him in the face of the charges.

As early as May, 1917, the governor began an open fight on the University of Texas, and procured the resignation of several

members of the Board of Regents who were not friendly with his program and secured a board that was under his domination. He demanded the dismissal of Doctor Vinson, the president of the University, and of four members of the faculty for whom he had conceived a personal dislike. His attack on the University at once aroused the resentment of the friends of the institution throughout the state, and in the latter part of May, while the Board of Regents was in session in Austin, the students of the University en masse staged a protest parade through the capitol grounds and under the governor's window, bearing banners with slogans and mottoes criticising the governor and his subservient Board of Regents. Ferguson stood at the window and watched this noisy demonstration and remarked to a friend who stood near him, "Ain't this fine?" He declared he did not blame the boys and girls who made this demonstration, but laid the blame of it upon Doctor Vinson and members of the faculty whom he charged with having incited it. The ex-Students Association and other friends of the institution throughout the state continued these demonstrations against him, and on June 2nd he vetoed the entire appropriation which the late Legislature had made for the support of the institution for the ensuing two years. The result of this veto, if it had been effective, would have been to close the institution until new appropriations could be made and approved. Friends of the institution realized that this was a serious blow from which it might not recover for many years; that if it were closed its faculty would be disorganized and many of its members would seek and find employment elsewhere, and it would require long years to perfect another proficient organization; that its students would enter other universities, and at some future day it would resume its operations seriously, if not permanently, crippled.

The opposition to Ferguson, chiefly led and advised by Chester Terrell, a member of the Legislature from Bexar County and a man of unusual intellectual force and firmness, rapidly crystallized a sentiment against the governor and prevailed upon

Chester Terrell of San Antonio, the Moving Spirit in Procuring the Impeachment of Governor Ferguson

WILLIAM R. HARRIS, OF COUNSEL FOR THE PROSECUTION IN THE IMPEACHMENT TRIAL OF GOVERNOR FERGUSON

F. O. Fuller, the speaker of the House of Representatives, to issue a proclamation calling the House to assemble at Austin on August 1, 1917, for the purpose of considering impeachment charges against Ferguson. While Ferguson and his friends challenged the right of the Legislature to assemble under the call of the speaker, yet on July 30th the governor boldly issued his proclamation assembling the second called session of the Thirty-fifth Legislature, to be convened at Austin on August 1st. The Legislature thus assembled by the calls of the speaker and the governor was quickly organized, and on the opening day of the session Speaker Fuller preferred charges of impeachment against the governor. There were thirteen of these articles of impeachment. The first one embraced the various charges that had been made about the misappropriation of public monies for the support of the governor's mansion. The second declared that he had transferred $100,000 of state money belonging to the Canyon Normal Fund from a depositary where it was drawing 4½ per cent interest, and had placed $40,000 of it in the Temple State Bank, of which he was a stockholder, where it remained on deposit without interest. The third charged that he had converted $5,600 dollars out of public money which he had caused to be deposited at the Temple State Bank and which had been used for his personal account. The fourth and fifth reiterated the charges that had been investigated by the January committee with reference to his dealings with the Temple State Bank. The seventh to tenth, inclusive, covered his attack on the University and charged the violation of statutory and constitutional duties in his dealings with that institution. The eleventh accused him of having fraudulently manipulated the location of a West Texas Agricultural and Mechanical College at Abilene by falsifying the votes of the members of the locating committee, of which he was a member. The twelfth charged him with having remitted an obligation of $5,000 due the state by one Allen, chairman of the Board of Regents of the University of Texas, for the purpose of influencing Allen to support

Ferguson's attack on the University. The thirteenth charged that he had sought by private loans made to Speaker Fuller to influence this official in the discharge of public duties.

The House of Representatives sitting as a committee of the whole proceeded to investigate these charges, and M. M. Crane, former attorney general of Texas, was chosen attorney to represent the House during the investigation, and he selected Chester Terrell of San Antonio and William R. Harris of Dallas as his assistants. On August 6, 1917, hearings began upon these charges in the House of Representatives, the state represented by the attorneys above named and the governor by William A. Hanger, R. L. Henry, Clarence Martin and B. L. Cummings. This hearing continued for twenty-one days, and on a vote of eighty-two to fifty-one the impeachment charges presented by Speaker Fuller and eight additional articles were formally preferred against Ferguson, and the House Committee was instructed to present these charges and the evidence supporting them to the Senate. During the process of the hearing of these charges before the House of Representatives, Ferguson testified that he had lately received from certain parties whose names he would not disclose $156,500. When questioned as to who loaned him this money he declared it was a private transaction; that it had not come from persons desiring to influence him as governor, and the public had no interest in knowing the facts about the matter. The House reported that the circumstances surrounding this loan and his refusal to answer constituted official misconduct and were in contempt of the House of Representatives.

Upon the adoption of the House report the Senate was notified, and advised that it was ready to hear the case. Immediately upon the voting of the articles of impeachment by the House, Lieutenant-Governor William P. Hobby became the acting governor of the state. When the Senate convened as a high court of impeachment on August 30, 1917, Texas witnessed for the first time in its history a proceeding to impeach a governor.

During the seventy-seven years that had elapsed since the state came into the Union, our governors had for the most part been able and efficient men, and had with two exceptions been accorded the attribute of integrity. At this time the United States was at war and the resources of the state were being taxed to the uttermost, while hundreds of thousands of our young men were being drawn from public life and hurried to military camps to be sent overseas. In the disturbed and turbulent condition which prevailed, it was, therefore, a sad and unseemly sight that the governor of the state, on whom so much depended during these trying times, should be haled before the Senate charged with high crimes and misdemeanors.

W. L. Dean, a senator from Walker County, was selected by his colleagues to preside over the court of impeachment. Dean was a lawyer of great ability, a man of sterling character, and the fitness of his selection was voiced with universal acclamation. On Thursday morning, August 30th, Ferguson, accompanied by his counsel, entered the Senate chamber, immediately followed by the Board of Managers selected by the House to prosecute these charges, and the impeachment court recessed until September 3rd. The Senate took testimony until September 21st, when the hearing was finally concluded by the arguments of opposing counsel. William R. Harris opened for the state, and the state's argument was concluded by ex-Attorney General Crane. Ferguson appeared by his counsel and in his own behalf. He began his argument with the familiar quotation: "It is easy when destiny proves kind with full spread sail to run before the wind, but those who against stiff gales would careering go must be at once resolved and skillful too." He concluded his address, which was throughout forceful and dramatic, with the following: "Lay aside the passions of the hour, try me like you would try anybody else, not any bias for me or any prejudice against me, but extending to me—like has been extended to all men of all ages—the eternal laws of justice."

On Saturday, October 2nd, the Senate sustained by the necessary two-thirds vote ten of the twenty-one articles of impeachment. Articles one, eleven and twelve were sustained by a vote of twenty-seven to four. Number one charged the payment of a note of the governor for $5,600 out of money belonging to the Canyon City Normal Building fund. Number eleven had reference to the mysterious loan of $156,500 in currency which the governor admitted but refused to disclose its source. Number twelve charged him with the payment of $3,000 belonging to the adjutant general's department to the construction of buildings for the Canyon Normal. Of the articles sustained, four appertained to the University.

The day on which the vote was cast was one of intense suppressed interest. The galleries were thronged with spectators. There was but one murmur of laughter throughout the day, and that occurred when the governor, in his speech referring to demands of the University for money, said "Money, money, money, money, the root of all evil." The laughter was met by a stern rebuke from the presiding officer, and the Senate continued to the end with a commendable dignity and decorum. The governor received the verdict of the Senate convicting him and ousting him from public office and declaring him forever incapable of holding any public trust in Texas without any show of emotion. On Wednesday, September 26th, formal judgment having been prepared and presented carrying these severe requirements, the Senate voted its adoption of the vote of twenty-five to three.

Ferguson sought to escape the effect of the judgment disqualifying him from holding office by filing his resignation with the secretary of state on the day before, and immediately after the judgment was published he declared that since he had resigned when it was pronounced that its terms seeking to forever bar him from holding office were ineffectual. In this formal resignation he declared his purpose to run for governor at the ensuing election, and in 1918 he sought the nomination against Governor Hobby, but was overwhelmingly defeated. In 1924 he

WILLIAM P. HOBBY

again announced for governor, and at his instance a suit was filed in the District Court of Harris County for the purpose of testing the validity of the Senate's judgment in so far as it sought to disbar him from holding public office. This case found its way to the Supreme Court of Texas in June, 1924, and two members of the court disqualifying Governor Neff appointed Alexander Coke of Dallas and Howard Templeton of San Antonio to sit in their stead. This court sustained the judgment of impeachment and declared that it forever disqualified Ferguson from holding public office in Texas. At this time the Ku Klux Klan had made itself conspicuous in Texas, and while the Klan support was solidified in favor of Felix Robertson of Dallas the opposition was divided among several candidates. Immediately after the Supreme Court announced its judgment, Ferguson caused his wife's name to be placed upon the official ballot and in the primary which followed she and Felix Robertson were the two highest candidates. The great antagonism toward the Klan forced thousands who had always theretofore and who have always since been opposed to Ferguson to support his wife for the governorship, with the result that she was nominated and elected. At the regular session of the Thirty-ninth Legislature which convened immediately following her election the Legislature passed an Amnesty Bill which sought to set aside that portion of the judgment of impeachment which disqualified Ferguson from holding public office. Dan Moody, then attorney general of Texas, advised the Legislature and the public that the so-called Amnesty Bill was invalid and thus began a political enmity between these men which culminated in the election of Moody to the governorship in 1926. The Fortieth Legislature which convened in January, 1927, repealed this Amnesty Bill so that the judgment of impeachment pronounced against Ferguson in 1917 seems to remain unaffected.

Four years after Ferguson's impeachment a Federal grand jury at San Antonio indicted two officers of the San Antonio Brewing Company on the charge of making false and fraudulent

income tax returns. The basis of the indictment was that the company had loaned Governor Ferguson $156,500 and had immediately charged the loan off to profit and loss, and had made a deduction of this item when rendering and paying income taxes for that year. This Federal investigation disclosed the source of the mysterious loan which constituted the basis of one of the articles of impeachment upon which Ferguson was convicted.

William P. Hobby of Beaumont filled the unexpired term and was elected to succeed himself in 1918. His administration was marked with a quiet dignity and although it came in troubled times Governor Hobby earned for himself a high place in the history of Texas.

CHAPTER CXX

THE LAST DECENNIAL—1917-1927

The events of this epoch are so recent that any effort to review them in the calm, disinterested way that history should be written is impossible. Macauly, in his *Essay on the Earl of Chatham,* written in 1844, says:

"We cannot but feel that the history of the first ten years of the reign of George III is but imperfectly known to us."

The period of which he spoke was more than sixty years before. The history of our generation cannot be well written until all of its doings can be seen in retrospect and recorded without prejudice, until all the sources of information have been studied apart from the personalities which sway the historian when he writes of living men whom he has supported or opposed. Many of the movements started by the war which broke the trend of events and made cross and counter currents in our affairs have not reached a final result and cannot be well appraised until they can be seen in the perspective. We can view secession, the Civil war, slavery, and the passing of the Indian as closed and finished chapters in our political life. But not so with the late war, the era of lawlessness that has followed, the Ku Klux Klan, the wild orgy of spending in public and private life, and the many other problems which have followed the armistice. Nearly 300,000 men from Texas were suddenly withdrawn from the farm, the factory, the office, the schoolroom, and thrown into the armies which were formed with feverish haste and sent to the battlefields of Europe. It was all so sudden and so strange that a country lad on the San Saba or from the Cross

Timbers should be hurried posthaste to repel an attack on Paris. All private enterprises were impressed, with the sole purpose of aiding the war. Those business concerns which could not contribute to the single purpose of winning the war were discouraged or suppressed. New fields of endeavor designed to furnish aid to our armies were opened in a day and our people went into them in a mad rush. Often these intense endeavors led to new lines of development which have become more or less permanent. When the war suddenly ended in 1918, many of these new enterprises became superfluous while others went on in an effort to find some economic place in peace time. The vast horde of our young men who had become soldiers overnight, torn from their life moorings, were thrown back into the body of our citizenship to find themselves as best they could. Often their pre-war places were gone, either obliterated by changed conditions or filled by other men. Old standards in industrial and social life are gone, and we find ourselves ten years later rushing along at a mad, bewildering pace. Men's minds are no longer led along the conservative ways of the days of Sayers and Lanham, but we think in terms of millions and billions and dash up and down the highways in automobiles or across the sky in aeroplanes and hear the universal voice over the radio. Do these things lead to a new high level of prosperity and material success, and do they make for human happiness, or are we riding recklessly to a fall?

Many freakish movements in our social, business and political life are traced directly or indirectly to the war, but the most conspicuous of these came in hood and shroud and but for its vast pretensions would have been a matter for mirth rather than serious concern.

The Ku Klux Klan

Some joined it for fear the negro would need suppressing as he did after the Civil war. Others that it would be a force for the suppression of crime. Thousands of Protestants for the

purpose of fighting the Pope. But the more designing saw in it an opportunity for political power and private gain, and a chance to do things under a mask and shroud which they did not dare do in the open.

On Thanksgiving night, in November, 1915, an old man by the name of William J. Simmons gathered thirty-odd followers in a meeting held on Stone Mountain, sixteen miles from Atlanta, where the modern Ku Klux Klan was born. It was heralded as a secret, fraternal, benevolent and patriotic order. The officers were genii, grand dragons, hydras of realms, grand goblins, kleagles of domains, grand titans, furies of provinces, and grants, exalted cyclops, terrors of cantons and such other hideous titles. Simmons was the Imperial Wizard.

The Klan made little progress until after the close of the war, when the idea was conceived to spread its gospel throughout the country. In 1919 and 1920 thousands of lodges were organized in every part of Texas, and they began taking the law into their own hands by administering punishment to men and women who were tried and convicted in the Klan halls and apprehended and summarily punished afterwards. A notable case was that of a committee of Klansmen at Goose Creek in Harris County, who took a woman from her home and cruelly beat her. This was only one of a hundred similar instances for the order made a specialty of ex parte trials and summary punishment of helpless friendless people. In many parts of the state the membership was so large and the influence of the Klan was so great it could do these things with impunity. At Waco the sheriff undertook to stop a Klan parade and was shot by some of the hooded paraders, yet no one was ever apprehended or punished for the offense.

By 1922 the order had assumed such proportions in Texas that it conceived the ambitious plan of electing a United States senator. Hiram W. Evans, an obscure and impecunious dentist of Dallas, had become the head of the order and he and his associates determined to center upon Earl Mayfield, one of the

several candidates against Senator Culberson, and the word went out from Atlanta and was relayed in Texas that all the faithful were to support this man for the senatorship. In the senatorial contest that was waged against the seating of Mayfield, a letter was introduced from H. W. Evans to a cashier of the order:

"I have agreed with the grand dragon of the Realm of Texas to allow him to put not in excess of ten men as lecturers and special investigators at work in Texas at this time, and he will from time to time notify you their names and you will put them on our payroll when requested by him at such salary and expenses as he may direct. * * * The above action is made necessary on account of the turbulent political condition in Texas, and to hold the Klan vote solid in the coming senatorial election in that realm. These expenditures are to be charged to field work, general account."

And again on June 10, 1922, the imperial dragon wrote from the imperial palace of the Invisible Empire in Atlanta to the grand dragon of the Realm of Texas:

"It is extremely important that we have every Klansman in Texas understand the vital importance of the election of Klansman Earl Mayfield to the United States Senate."

Executive Order 391, issued by Evans, imperial dragon, in 1922, bearing upon the use of special funds for Texas, concluded with the following:

"Done at the imperial palace in the Imperial City of Atlanta on this the dismal day of the wailing week of the mournful month of the year of the Klan LV, and the year of the Lord 1922."

One would think that such half wit would have disgusted intelligent people everywhere, but in the face of all this and much more the Klan held together and carried on for two years longer.

The impeached governor, James E. Ferguson, was a candidate for the senatorship, and in the July primaries of that year

GOVERNOR DAN MOODY

Mayfield, with the Klan support, led. Ferguson was second and Senator Culberson third. This forced the voters to a choice between the Klan candidate and the impeached and discredited governor, and resulted in Mayfield's securing a majority in the run-off primary.

Following this triumph, the Klan boldly set out to control the state elections in 1924, and centered upon Felix Robertson of Dallas as its candidate for governor. The Supreme Court of Texas had held that Ferguson was ineligible to hold office, and he had his wife's name put on the official ballot. The vote that would naturally have been opposed to the Klan and to Ferguson was divided between T. W. Davidson of Marshall and Lynch Davidson of Houston, both of whom had held the office of lieutenant governor of the state. No candidate received a majority and Felix Robertson and Mrs. Ferguson, the two highest were left to contend in a second primary.

The thinking people of Texas were now aroused to the danger of the Klan domination, as they had never been before and when in the second primary the choice was offered them between the return of Ferguson to power or the election of a Klan candidate, they chose the former and Mrs. Ferguson was nominated and elected.

Politically speaking, therefore, the Klan has to its record in Texas the unseating of Culberson by Earl Mayfield and the election of Mrs. Ferguson to the governorship.

The defeat of the Fergusons by Dan Moody in the 1926 primaries was the fourth time in the history of Texas that a governor was defeated for reelection for a second term. Bell defeated Wood in 1849, Houston beat Runnels in 1859, and Davis was ousted by Coke in 1873.

Not until this generation has passed away can a trustworthy history be written of Ferguson and an accurate portrayal made of the part he has played in the affairs of Texas.

Weary from the strife of the last four years our people turn with confidence to the young governor who stands at the

threshold of a career full of fair promise and rare opportunity for the achievement of good for Texas.

And this is the story of our state and our people since the Spanish gold hunters first saw our shores nearly 400 years ago.

It is not a spotless record for human annals are never so, but with varying degrees it has been upward.

For two centuries Texas was part of Mexico but the palsied hand of Spanish sovereignty put a curse on that country which time has not erased.

When one contemplates the blessings of peace and industry under a stable honest government and the utter misery of anarchy, he is led to wonder that the Divine Plan should have left human government to drift for ever upon the vast sea of political unrest. How could the hand that fashioned the firmament and fixed with perfect precision the strides of the earth for a million years, have left man for whom the world was created, to flounder forever in bloody revolution in which ages of countless despots "wade through slaughter to a throne and shut the gates of mercy on mankind."

We have come far since the days of the Spanish gold hunters but we yet have far to go before we demonstrate that human integrity is sufficient for self-government.

C. R. WHARTON.

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